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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2014. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
--------------------------------------x
ANWAR ALKHATIB,
Case No.
Plaintiff, 13-CV-02337
(ARR)(SMG)
- against -
ACTION #1
NEW YORK MOTOR GROUP LLC, et al.,

Defendants.
--------------------------------------x
SHAHADAT TUHIN,
Case No.
Plaintiff, 13-CV-5643
(ARR)(SMG)
- against -
ACTION #2
NEW YORK MOTOR GROUP LLC, et al.,

Defendants.
-------------------------------------x
BORIS FREIRE and MIRIAM OSORIO,
Case No.
13-CV-5653
Plaintiffs, (ARR)(SMG)

- against -

NEW YORK MOTOR GROUP LLC, et al., ACTION #3

Defendants.
-------------------------------------x
SIMON GABRYS,
Case No.
Plaintiff, 13-CV-7290
(ARR)(SMG)
- against -

NEW YORK MOTOR GROUP LLC, et al. Action #4

Defendants.
------------------------------------x
(Caption continued on next page.)

DATE: April 27, 2015

VIDEOTAPED EBT OF MAMDOH ELTOUBY

♀

-----------------------------------x
ZHENGHUI DONG,
Case No.
Plaintiff, 14-CV-2080
(ARR) (SMG)
- against -

NEW YORK MOTOR GROUP LLC, et al., ACTION #5

Defendants.
-----------------------------------x
NASRIN CHOWDHURY,
Case No.
Plaintiff, 14-CV-2981
(ARR) (SMG)
- against -

NEW YORK MOTOR GROUP LLC, et al., Action #6

Defendants.
-----------------------------------x

EXAMINATION BEFORE TRIAL of the Defendants PLANET MOTOR CARS, INC., NEW YORK MOTOR GROUP, LLC and MAMDOH ELTOUBY, taken pursuant to Order held at the law offices of MFY LEGAL SERVICES, INC., 299 Broadway, 4th Floor, New York, New York 10007, on April 27, 2015, commencing at 10:30 a.m., before KAREN VIGGIANO, a Shorthand Reporter and Notary Public within and for the State of New York.

REINIG REPORTING, INC.
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(Continued...)

♀

4

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♀

5

STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein that the filing, sealing and certification of the within deposition be waived.

That such deposition may be signed and sworn to before any officer authorized to administer an oath with the same force and effect as if signed and sworn to before the officer before whom said deposition was taken.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form are reserved for the time of trial.

♀

M. Eltouby

M A M D O H E L T O U B Y, having been affirmed by a Notary Public within and for the State of New York, was examined and testified under oath as follows:

EXAMINATION BY
MR. KESHAVARZ:

Q Good morning, sir. Can you state your full name for the record, please?
A Mamdoh Eltouby.
Q Have you been known by any other name?
A No.
Q What is your address, sir?
A 1783 Penc Drive, Melville, New

York 11747.

Q How long have you resided there, sir?

A From '03.

Q Do you own?

A Yes.

Q Where did you reside prior to that?

A Excuse me?

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Q Where did you reside prior to that?

A Valley Stream.

Q Do you remember the address?

A Yes.

Q What is it?

A 29 Liggett Road, Valley Stream, New York.

Q How long did you reside there, sir?

A Ten years.

Q And did you own that property?

A Yes.

Q You've been sitting in on some of the depositions in this case, right?

A Yes.

Q Which depositions have you been sitting in so far?

A Two.

Q Which ones?

A Right now two.

Q You sat in on your daughter's deposition?

A Yes.

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Q Did you attend any of the other depositions in this case?

A I don't know.

MR. SIMON: We can stipulate he sat in when -- you were there when --

THE WITNESS: My daughter.

MR. SIMON: When Nada was here?

THE WITNESS: Correct.

MR. SIMON: You were here when Freire was deposed and Dong was deposed?

THE WITNESS: No.

MR. SIMON: You weren't here then?

THE WITNESS: No.

MR. SIMON: You were only here on yours and your daughter's?

THE WITNESS: Correct.

MR. SIMON: Okay. .

Q Did you understand the oath that the court reporter gave you prior?

A Yes.

Q You understand you have to tell the truth, the whole truth, just as if you were in front of a judge and jury?

A Yes.

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Q Let me go over the ground rules. It's normal in a conversation to anticipate the end of a question and to begin an answer, especially in New York City.
A Okay.
Q It's important since the court reporter is taking notes that we have a clear record. So please try to wait until I'm done with the question before you begin to answer even if you think you know the question. Will you try to do that?
A Okay.
Q If I ask you a question that you don't understand, will you please ask me to rephrase it?
A Okay.
Q It's important in a deposition to verbalize and answer either yes, no, as opposed to nodding or shaking your head. Will you attempt to do that?
A I understand.
Q If I ask you a question -- I'm sorry, I might have asked you this, but let me ask you again. I apologize if I'm duplicating.

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It's not easy to do it on this side. If you don't understand a question, will you please ask me to rephrase it?

A Correct.

Q If I ask you a question and you don't ask me to rephrase it, is it reasonable for me to assume that you understood the question?

A Okay.

Q Are you under the influence currently of any medications that may affect your ability to testify truthfully at this time?

A Not really.

Q You said "not really"?

A Because I'm on medications right now.

Q I don't need to go into your personal business.

A Yes.

Q But I'm just wondering if it is a medication that affects your ability --

A No, no.

MR. SIMON: Let him finish the

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question first, then answer.

THE WITNESS: Okay.

Q It's normal in a conversation to --

A No problem.
Q -- to anticipate.
So I don't need to get into your medical personal issues. My only question is, are you on any medication that will prevent you from fully understanding and fully, truthfully answering my questions?
A No.
Q Okay, what is your age, sir?
A 65.
Q And what is your date of birth, sir?
A 4/26/50.
Q What's your Social Security number, sir?
A Objection.
Q Let me go through some of the rules, sir.
A It's private stuff. I never see in a deposition I give my social security

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number to anybody.
MR. SIMON: Tell us why you want his Social Security number?
MR. KESHAVARZ: In case we do a background check.
MR. SIMON: Can you go with the last four or the whole thing?
MR. KESHAVARZ: Whole thing.

MR. SIMON: You can state your Social Security number but I don't want it given to anybody outside of this room without our permission.

Q You have to understand in court the information can't be filed public that has private information, such as account numbering cannot be filed public. The rules, that has to be redacted. Social Security number, date of birth, none of that can be filed public. You don't have to worry about that aspect of it. During the course of the deposition, I get to ask you questions. If your attorney has an objection, usually objection to form, you still go ahead and answer the question. Do you understand that?

MR. SIMON: You can answer it. I'll make sure the judge prohibits that information from getting out to others, but technically you have to answer it because they may need that if they want to do a background check on you, file a lawsuit, judgement, whatever. So, therefor, give him the Social Security number.

A 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.

Q I couldn't hear you.

A 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.

Q Where were you born, sir?
A Cairo, Egypt.
Q When did you move to the United States, sir?
A I not move to United States. I was in Europe before.
Q So how long did you live in Egypt for?
A Until age 22, 23, something like that.
Q And where did you go to after you were 22, 23?

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A Scholarship to Germany.
Q You went to college?
A Scholarship.
Q Scholarship for what, sir?
A For engineering.
Q Did you get an engineering degree?
A Yes.
Q Was it a bachelor's degree?
A It's called engineering degree.
Q Before you left Egypt, did you go to college?
A Yes.
Q Did you complete college?
A Correct.
Q What was your major course of study in college?

A Technology.
Q What do you mean?
A Technology.
Q In a sense, what do you mean by college?
A Electrotechnique engineer.
Q A type of engineer?
A Uh-hum.

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Q Yes or no, for the court reporter.
A Yes.
Q And then you went to Germany on a scholarship to continue your studies, correct?
A Yes.
Q And you got a degree in engineering in Germany?
A Yes.
Q How many years did you study in Germany?
A Another two years.
Q Another two years.
And did you remain in Germany after your two years?
A Yes.
Q How long did you reside in Germany?
A 12 years.
Q And what did you do while you resided in Germany, sir?

A I was working for Mercedes Benz and Porsche.

Q What capacity, sir?

A Factory.

Q What capacity? In what way were you working?

A Robotic engineer.

Q So 12 years, what time period was that, roughly?

A Until 1985, 1986.

Q And then you started around '73?

A '74.

Q So from '74 to '85 you were a robotics engineer at Mercedes or Porsche?

A I was working in Mercedes Benz and Porsche.

Q Just briefly, what do you mean by "robotics engineer," what does that mean?

A Factory. You don't know robotics engineer? When they assemble the car, they have some robot, this is already -- technique was electric. This was welding stuff, put something in the car, they come in second car, this is robot. You know robot?

Q In case you're wondering, there's some things -- we'll get into the facts of the case that I know, but the point of the deposition is if the case ever goes to trial,

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that parts of the deposition may be read to the jury. So even if it's something that you think maybe is clear to me or the other attorneys in the room --
A Correct.
Q -- the reason I'm asking you, so we can explain it to a jury.
A Okay.
Q Now, what did you do after 1985 or so after that robotics work?
A I was not working in my business. Also, was my career, you know, for long. When I finish college, I working only for a year and I change my major and I work in export. I was exporting to Saudi Arabia construction machine.
Q For what period of time were you doing exporting?
A From 1978, 1977, something like this.
Q It's important for you to wait until I finish the question because the court reporter is typing. When she does that she scowl -- I don't know if you noticed.
So when you were doing robotics at

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BMW and Porsche --

A No, not BMW. Mercedes.

Q Mercedes. When you were doing robotics at Mercedes Benz and Porsche, were you also doing export of construction materials, machinery to Saudi Arabia at the same time?

A Not really. In the end.

Q But you worked for Mercedes and Porsche doing robotics from approximately 1974 to 1985?

A No, I was in college in 1974. I finish college in 1976, 1977.

Q So you finished college in Egypt in 1976, 1977?

A No, I come to Germany in 1974. I finish college in Egypt in 1973.

Q Yes. So in 1974 you went to Germany. You were studying for two years in Germany?

A Yes.

Q Until approximately 1976?

A Yes.

Q And then from 1976 forward, that's when you worked in robotics at Mercedes and

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Porsche?

A Yes.

Q You worked in robotics at Mercedes and Porsche for 10 to 12 years; is that right?

A No.

Q For how long?

A I was just on the -- when supposed to be making a contract. I chose -- I work in little bit for Mercedes. Then I work for Porsche to see which one, the work I like, you know. Then after this, I see the opening, you know, opening for export, you know. Then I decided, I say, "You know what, let me take off one year to see how is the business working. If I fail, you know, I go back to Mercedes Benz." But I get successful, you know. And I already was one of big exporter in Germany to Saudi Arabia, Middle East between machine, construction machine and cars and trucks.

Q And when did you make that leap from doing robotics to trying your hands at exports?

A When I explain.

Q What year?

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A You want me to explain again?

Q What year?

A Okay, this was 1976, 1977. When I was really working, you know, I finish college. After finish college, right away I working, you know, a little bit here, a little bit here, then I decided to go to my own business.

Q Okay, so you are saying '76 when

you said you were working here, there, does that mean you were working both doing robotics?

A Yeah, I work in couple months in Mercedes Benz and couple months in Porsche. I was not have contract, you know. They offer me five-year contract. I say no, I don't want contract right now until I have a vision, I have to see what I have to do exactly because I study a lot in my life.

Q So what, I guess, I'm unclear about is in terms of the year if you started working on and off at Porsche and then Mercedes back and forth doing robotics, for what time period was that, from '76 until when?

A To '77.

Q And in '77 is that when you

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branched out and started doing exports?

A I started to open my own company.

Q And did you continue to do robotics after --

A No.

Q It's important you wait until I finish the question.

Did you continue to do robotics at all after you decided to start into exports?

A No.

Q So in '77 you started doing export, correct?

A Yes.
Q Did you have a particular business you were operating?
A Yes.
Q What was it called?
A I have export business for machines, you know. I have my partner, he's a hydraulic engineer and robotics engineer. We was fixing also Caterpillars, bulldozer and machine, big machine.
Q Did your export company have a name?

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A It was Eltouby Enterprise.
Q Did you operate under any other business names other than Eltouby Enterprise when you did export?
A Yes, I was, you know, was in the beginning private, you know, it's just export, when somebody asking me from overseas buy for him something and I send it.
Q But did you do that -- so sometimes you did business under your name personally and sometimes you did it through Eltouby Enterprise, is that what you mean?
A Yes, it's also my name.
Q Eltouby Enterprise was that corporation?
A Yes.

Q That was incorporated in Germany?
A In Germany, yes.
Q And how long did you do export of construction machinery, Caterpillars, bulldozers and the like?
A Yes, and -- okay, you finish?
Q No, go ahead.
A It's not only Caterpillar and

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machine. It's cars and trucks and construction machine.
Q And for what period of time did you do this, in exporting?
A From 1977 until 1985.
Q And did you reside in Germany that entire time?
A I was in Germany all the time.
Q Now in terms of the cars and trucks that you were involved in export, tell me what that entailed exactly. When you said you were involved in export of cars, trucks, give us an example about what you mean by that.
A Like, you know, in this time was big construction in Middle East, you know, and you need -- Egypt you need cars, you need everything. And it was not only me. There was lot of company sending cars, trucks, Caterpillars to Middle East.
Q Can you give me an idea about the

size of the business in terms of how much
revenue it gained, rate how much inventory,
give us a general idea about that?
A I was -- I was sending about 60

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cars a month I would say to Egypt and I was
sending also between 20 to 25 cars to Saudi
Arabia and trucks.
Q Yes.
A And I was sending also about
around 20 trucks, this is dump truck.
Q So in terms of maybe -- what's the
value, how much money was going back and forth?
A Oh, this is in review monthly,
about a million Dutch Mark.
Q Do you know how many dollars, U.S.
dollars that might be?
A No, in this time I don't know. I
don't know anything about dollar. I don't know
anything about American at this time.
Q So one million Dutch Mark per
month?
A Yes, around.
Q Roughly speaking?
A Around. Not exactly.
MR. SIMON: You mean Deutsche
Mark, not Dutch Mark?
MR. KESHAVARZ: I don't know.
A This could be more.

MR. SIMON: You don't mean Dutch, like the Netherlands. You mean Deutsche Mark?

THE WITNESS: Deutsche, Germany, Deutsche Mark.

MR. SIMON: They used Deutsche Mark. Now they use euro. In those days it was Deutsche Mark, not Dutch Mark.

MR. KESHAVARZ: Thank you.

Q Are you saying that is the profit per month, revenue per month?

A No, revenue.

Q Do you know approximately what was the profit per month, per year?

A I have to go back to Germany to get something as to how much in a month. I don't have. I lie to you if I telling you this is exactly. You're talking about more than your age, also, you know.

Q I wish that were true.

But do you know how much money you made during that, roughly speaking, do you remember or not?

A Roughly, between, you know 50,

60,000, about.

MR. SIMON: You mean Deutsche Mark?

THE WITNESS: Yeah, not profit.

Q Per year, per month?

A No, monthly.

Q 50, 60,000 Deutsche Mark monthly profit?

A About.

Q That's fine. I'm trying to get a general idea.

A Could be less, it could be more.

Q Roughly speaking?

A Yes.

Q That's fine.

A I have a partner, yes.

Q Who's the partner?

A One partner.

Q Who?

A One guy, his name is M-O-H-A-M-E-D E-L S-H-A-R-K-A-W-Y.

Q Do did you any business with this gentleman after you came to the United States?

A No, that was, you know, complete

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export business. It was not really so much.

Q And you left Germany approximately 1985?

A 1985, 1986. Not '86. First time I come to America in '85.

Q Did you move here in '85?

A No.

Q How long did you stay in America for?

A How long? I come in here and I go back and come and go back, you know.

Q For how long a period of time were you coming and going back from the United States to Germany?

A Until -- I think until 1987, 1988. 1987 about.

Q Roughly '85 to '87 you're going back and forth from Germany to the United States?

A Yes.

Q And did you end up moving to the United States?

A Yes.

Q When?

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A '87.

Q What made you come to the United States beginning in '85?

A I was bringing here merchandise was about -- in Deutsche Mark about 600,000. In this time that was about $200,000, which is the dollar was three Marks in this time, three Marks and a half, something like that, three Marks.

MR. SIMON: Well, just testify to the best of your recollection.
THE WITNESS: Okay.
A Then the dollar went down, you know, it went down. Then my money, I tried to take it back to Germany. It was not 600,000, it would be much less. Then I, you know, I decided to stay in America making business to get my money and go back because I never decide to stay here in this country.
Q Why not?
A I always have very, very good business in Germany and very close to my country. Two, three hours you can be in Egypt.
Q So it's because of the devaluation

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of the currency that made you want to stay in the United States?
A Yes, I have lot of merchandise.
Q What type of merchandise?
A I have lot of Mercedes Benz, you know, remember the time of the gray market?
Q Tell the jury what a gray market is. I understand what gray market is.
A Gray market, which is bringing cars from Germany, you know, Mercedes Benz and BMW and bring it to the United States and do the conversion, which is that DOT and EBA conversion and then they sell it here and sell

it here and there was lot of big profit, which is -- the profit is money change, it's not profit -- profit origin, you know, the money change is make big, big difference.

Q But I know what you mean by conversion, but tell the jury what you mean by conversion.

A Conversion making DOT and EBA. DOT for the safety driving for the cars and America different than Europe.

Q That's what happened to be the

change?

A Uh-hum.

Q You have to say "yes" or "no."

A Yes.

Q Now, you're doing about 600,000 Deutsche Mark business in the United States?

A Yes.

Q Per year, per month?

A No, that was I bringing merchandise here was this amount.

Q Merchandise being the vehicles?

A Yes.

Q So how would you sell the vehicles in the United States from '85 to '87?

A I was selling the cars through a company called Berlin Motors.

Q Are they still in existence?

A No.

Q Where were they located?

A Coney Island Avenue in Brooklyn.

Q Was your dealings with Berlin Motors the first dealing you had with a car dealership in the United States?

A This was a friend of mine has

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dealership, not mine.

Q But it's the first time you had a business relationship with a car dealer in the United States was with Berlin Motors between '85, '87?

A Yes.

Q Did have you any other dealings with any other car dealership in that period '85, '87?

A No. Because friend of mine, he came to the United States first buying cars, you know, and I see what kind of car he bought and I ask him if you need more car and I bring cars.

Q So then you brought Mercedes vehicles through the gray market for Berlin Motors to sell?

A Yes.

Q And who is the name of the individual that you are referring to at Berlin Motors?

A His name is Ahmed Samey.

MR. SIMON: Note my objection to the whole -- all these questions which

are many, many, many, years before the events in question in this lawsuit; but counsel, if he wants to continue -- I just object as to relevancy, but if he wants to continue with this line of questioning, he can.

A Do you want to know my life?

Q Did you do any business with Ahmed Samey after the time period of 1985 to 1987?

A Yes, in and out.

Q In what way?

A You know, I was always coming sit down by him, you know, he's a friend of mine and we trying to do business together.

Q So even after the time period of '85 to '87 you had moved inventory, vehicles through dealerships run by Mr. Samey?

A Yes, I was trying to sell my cars. This is I bring it to the United States.

Q For what period of time did you have vehicles sold through Mr. Samey's dealership or dealerships?

A I think until 1988 or 1989.

Q And, to your knowledge, did Mr.

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Samey sell those vehicles through any dealership other than Berlin Motors?

A No.

Q And give me an idea about the amount of inventory that you moved to the United States between '85 an '87. You said you brought $600,000 of assets, inventory?

A Yes.

Q Was that all you sold for that period of time?

A This is about two years. Twenty vehicles.

Q That's the only inventory you sold in the U.S. between '85, '87?

A No, I bring another 10 vehicles.

Q Anything else from '85 to '87?

A No.

Q I want to make sure. Both the 20 vehicles and the 10 vehicles, those were all being sold through Berlin Motors?

A Most of them.

Q Where were the other ones being sold, to your knowledge?

A I was trying to do by

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advertisement by myself, you know, in

newspaper.
Q And as a private seller?
A Uh-hum. As private seller.
Q About how much of that 30 cars and inventory were you selling as a private seller?
A Inventory for each car?
Q Well, you had about, if I understand correctly, you had about --
A I cannot remember. It's '70, '78.
Q We're talking about '85 to '87, right?
A In the '80s, yes.
Q Do you remember if most of them were sold by you or most of them were sold by Berlin Motors?
A Some sold by me.
Q So then you moved to the United States in '87, '88?
A Yeah, so you want step by step for every year until present?
Q Yes.
A Are you serious? This has to be finish until tomorrow morning maybe.

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Q How many dealerships did you do business with in the U.S. from '87 to present , how many dealerships?
A I was dealing with Transamerican Export Group. I was dealing with Big Boys Toys

-- Big Toys, Sphinx Auto Sales, Atlantic Auto Auctions, Federal Auto Auctions, Planet Motor Export -- Planet Motor Cars.
Q What's the full name, Planet Motor Cars, Incorporated, LLC?
A Yes, Incorporation.
Q What else?
A Planet Auto Group.
Q Was it incorporated, Planet Auto Group?
A Yes.
Q Incorporated?
A Yes.
Q What else?
A New York Motor Group.
Q Incorporated?
A Yes.
Q What else?
A That's it.

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Q So from '87 to present, you've had dealings with Transamerican Export, Big Boys Auto Sales, Sphinx Auto Sales, Atlantic Auto Sales, Federal --
A No, not Atlantic Auto Sales. Atlantic Auto Auctions.
Q Thank you.
Federal Auto Auctions?
A Yes.

Q Planet Motor Cars, Incorporated?
A Yes.
Q Planet Auto Group, Incorporated?
A Yes.
Q And New York Motor Group, Incorporated?
A Correct.
Q Did you do business with any other car dealerships in the United States from '87 --
A Sometime consultant, also.
Q You have to wait until I finish the question.
Did you do business with any other car dealerships in the United States from '87

to present other than the ones that you just mentioned?
A This is, you know, in and out for another company, is like, I don't know, United Auto Group, something like this.
Q United Auto Group?
A Yes, but I was, you know, working as buyer. You want to name every company I was buying for them?
Q Yes. I'm trying to get a list of all the car dealerships you did business with from '87 to present.
A Okay.

Q United Auto?
A Yes, United Auto Group.
Q Yes.
A Atlantic Kia.
Q Yes.
A Hillside Motor Consultant as a consultant, you know.
Q Hillside Motor, Incorporated?
A LLC.
Q Hillside Motor, LLC as a consultant?

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A Yes.
Q What other car dealerships?
A I don't -- that's it.
Q Particularly, say, in the last five years, are there any other dealerships that you had any business dealings with either as consultant, as investor, as an employee, any other dealerships, say, in the last five years other than those?
A Planet Motor Corp.
Q We talked about that already, I think. Let's do it from '00 to present, are there any other car dealerships that you were involved with? "Involved with," I want to make sure it's very clear, very broad, either owned on paper, owned in equity, worked there, ran it?

A Yes.
Q Volunteered, any business dealing at all other than what we've talked about so far?
A I already pronounced for you everything. Yes.
Q Is that the entire period from '00

to present or '87 to present?
A Correct.
Q '87 to present?
A Uh-hum.
Q Yes or no?
A Yes.
Q When you say you did business with them, give us a specific examples. What do you mean by "doing business with"?
A Involve, like buying cars, consultant.
Q What do you mean by "consultant"? You said you were a consultant at Hillside Motor LLC?
A Consultant meaning buying for them cars, buying.
Q Buying from where?
A Buying. Buying cars from auction.
Q From auctions?
A Yes.
Q And when you buy cars at auctions,

do you do it through a license of a dealership or did you do it personally?
A No such person. This is under I'm

a buyer for the company.
Q Oh.
A Yes.
Q So when you buy -- when you were a consultant at Hillside Motor LLC, you were buying cars at an action under the name of Hillside Motor LLC?
A Correct.
Q What other dealerships were you buying vehicles in the name of other than Hillside?
A Planet Auto Group.
Q Incorporated?
A Yes.
Q For what period of time?
A From '05.
Q To present?
A Uh-hum.
Q On a regular basis?
A Regular basis, yes.
Q What other dealers?
A Hunts Point.
Q What's the full name for Hunts Point?

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A Hunts Point Auto Sales.
Q And you had purchased vehicles at auctions under the license of Hunts Point Auto Sales?
A Correct.
Q For what time period?
A Yes.
Q For what time period?
A For, I think, for a year ago, one and a half until now.
Q So from '03 to present?
A '14.
Q '14 to present?
A Uh-hum.
Q Give me an idea about how much inventory -- take one at a time, how much inventory are we talking about at Hunts Point you're purchasing?
A I buy from them all the time, deals, you know. I don't remember because, you know...
Q One hundred cars?
A Just only as dealership.
Q Ballpark idea, 100 cars, 1,000

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cars, 10 cars?
A I don't remember.

Q What other dealerships were you purchasing vehicles under the license of other than Planet Auto Group, Incorporated and Hunts Point Auto Sales?

A Right now at present?

Q Well, let's take it that way, presently.

A Okay, Hillside Motor, Planet Auto Group and Hunts Point. Those three companies I buy from them cars.

Q And from, say, '00 to present, which of these dealerships were you buying cars under their license for?

A '00 to present?

Q Yes.

A No, no such thing. I don't buy, you know, I don't have anybody from '00 to present to buy them, you know, cars, except Planet Motor Cars and Planet Auto Group.

Q So you purchase --

A Also, not at present, you know, Planet Motor Car is -- already is -- I think I

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stop buying from Planet Motor Cars in '13.

Q When did you begin?

A I think in 1988 or 2000. 2000, yes.

Q 2000 until?

A Until 2013.

Q You would buy vehicles at auctions under the name of Planet Motor Auto Cars?
A Planet Motor Cars.
Q Planet Motor Cars, Incorporated from '00 to '13?
A Correct.
Q Where would the money come from for the purchase of these vehicles from the auction?
A Money from the company.
Q So Planet Motor Cars, Incorporated would provide money for the vehicles you were purchasing under their license from '00 to '13?
A No, something called a "floor plan." A company, they give us the money, you understand? They give the company the money and you purchase the car. When you sell the car, you pay the company, the company give you

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the title. You got it?
Q So the title is in whose possession, in the floor plan's possession?
A Floor plan company.
Q So it's purchased at the dealership from money -- excuse me. The vehicles are purchased at the auction?
A Yes.
Q By money lent from the floor planner to the dealer?

A Correct.
Q And the floor planner holds possession of the title and the dealer pays the floor planner?
A Until the car's sold.
Q And the car's sold to a consumer?
A To consumer.
Q And then the money from the consumer goes where?
A To go to the company and we pay off the car to get the title.
Q The car dealers that is selling the car, the money goes to the car dealer that's selling the car and it pays off the

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floor planner?
A Correct.
Q And then the difference of that is the dealer's profit?
A Correct.
Q And for the cars that you were purchasing under the license of a dealership, would you get any of the proceeds from the sales of those vehicles?
A Yes.
Q In what way?
A They give me a buyer fee.
Q Which is what, how much?
A About $100 each car.

Q Would you get any other compensation in any way for the vehicles that you were purchasing at auction using the license of these various dealerships other than $100 per car?
A Yes.
Q What other way?
A $100 only.
Q Were you paid in any other manner?
A What?

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Q Were you getting compensated in any other manner?
A No. Okay, continue, I'm sorry.
Q It's fine. Like I said, it's normal part of conversation.
A Okay.
Q So when you purchased, say, cars under the license of Planet Motor Cars, Incorporated, are you saying the only money you made in any way, shape or form for any of those vehicles that you purchased at auction was $100 per vehicle?
A Yes.
Q Any other dealerships under whose license you would purchase vehicles from since '00 other than Planet Motor Cars, Planet Auto Group, Hillside Motor LLC, and Hunts Point Auto Sales?

MR. SIMON: Note my objection to the form of the question because you said purchasing vehicles from. You mean purchasing vehicles for?

MR. KESHAVARZ: Right, I'll restate the question.

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Q Are there any dealerships for whom that you were purchasing vehicles at auction under their license in '00 forward other than from Planet Motor Cars, Incorporated?

MR. SIMON: You mean, for not from?

MR. KESHAVARZ: For.

Q From Planet Motor Cars, Incorporated from '00 to '13, Planet Motor Group, Incorporated '05 to present, Hillside Motor, LLC and Hunts Point Auto Sales from '14 until present, any other car dealers that you were purchasing vehicles for at auction under their license since '00 other than those?

A No.

Q For what period of time were you purchasing vehicles for Hillside Motor, LLC under the license of Hillside Motor, LLC?

A From '13.

Excuse me, back to the question about buying cars. You forgot to say this is New York Motor Group, yes.

Q And for what period of time were
you purchasing vehicles under the license of

M. Eltouby

New York Motor Group, Incorporated?
A I think '01 -- no, '11, sorry,
until '13.
Q Now sometimes you had purchased
vehicles at auctions under the license of one
dealership, but those vehicles would be sold at
a different dealership; is that true?
A Not really.
Q In what way is it not?
A Unless, you know -- yes, the floor
plan company, this is -- I buy under their
name, and so this is called "Palisades Dealer
Funding."
Q And were they the floor planner
for all those dealerships?
A For most of the dealership, yes.
Q Palisades Dealer Funding,
Incorporated or do you know?
A I think LLC.
Q Do you know where they're based
out of?
A Queens Boulevard.
Q And do you know who runs Palisades
Dealer Funding, LLC?

M. Eltouby

A This is -- what's his name? Gadi Ben Hamu. I don't know exactly his spelling but I know the name.

MR. SIMON: I believe the last name is Ben Hamo. So Gadi Ben Hamo.

Q Gadi Ben Hamo?

A Yes.

Q So Palisades Dealer Funding, LLC was doing most of the floor planning for all those dealerships?

A Yes.

Q When you say "most," like 90 percent? Give me an idea.

A 100 percent.

Q 100 percent, all of it?

A Yes.

Q So have you been doing business with Gadi Ben Hamo the entire time?

A Yes, he's around for long time.

Q He's been running it the whole time?

A Long time.

Q By running it, is he actually the person running it or just on paper?

♀

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M. Eltouby

A I have no clue. I don't go in his company.

MR. SIMON: Note my objection to the form of the question. I think he said the dealership did business; Ben Hamo, Palisades would finance the purchases. You said "Does he do business as opposed to Ben Hamo does business with the dealerships funding their purchases." That's just the basis of my objection to the form of the question.

Q Is that correct, sir?

A Correct.

MR. KESHAVARZ: Off the record.

(Discussion is held off the record.)

Q Well, other than $100 per vehicle that you were obtaining through the license of each of the dealerships, how else were you making any money in any way in the auto industry?

A You know, sometimes the customer would like to go to auction with me and this is

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M. Eltouby

out of the dealership and he give me some commission, you know.

Q Such as?

A You know, it's like you asking me, "Mr. Eltouby, can I go with you for auction, you buy car for me, I take care of you?" I said, "No problem, come with me." And we go to auction.

Q To your knowledge, would those individuals be purchasing it for themselves or for sales to a dealership?

A No, no for self.

Q Did you make any other money in any way, shape or form through the auto industry in the United States from '87 to present other than what we've discussed?

A No.

Q Other than $100 per vehicle?

A Uh-hum.

Q You have to say "yes" or "no."

A Yes.

Q So how did you support yourself from '87 to present other than getting $100 per vehicle?

♀

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M. Eltouby

A Buying cars, you know, buying 60 cars. If you're buying 60 cars for dealership, it's $6,000. Plus, I had my own money when I coming from Germany, don't forget this.

Q How much?

A I had my own money. You know, I have 600,000 Marks and converted to United States money is about 200,000, you know, I was dealing with and so -- and buying and sell, you know.

Q Buy and sell?
A Buy and sell cars.
Q So were you buying and selling cars other than the $100 commissions you were getting under the license of other dealers?
A Yes.
Q When were you buying and selling?
A Through the company, you know.
Q When were you buying and selling cars, who do you mean you were buying and selling it to?
A Buying from the auction, brought it to dealership and sometimes they give me a big commission. It's not only $100 profit.

♀

And my buyer fee.
Q What's your buyer's fee?
A My buyer fee is $100.
Q So when you get a car at auction, you purchase it under the license of the dealership?
A Correct.
Q One source of income is $100 per vehicle, correct?
A Correct.
Q What other source of money do you get?
A When I buy cars by myself, you know, and good deals, good deals and I say this

car here, this got to be not regular commission because I get the car good. Say, example, the car and value in the market $15,000. I get it already for 12 or 13, you know. Instead, I bump up the price, I say "Guys when you sell car, you get it not for that money," that's it.

Q You bump up the price to who?

A To the company.

Q So you would purchase a vehicle under the name under the license of one of

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M. Eltouby

these car dealerships?

A Yes.

Q They would be financed through the floor planner, yes?

A Yes.

Q Then it would be purchased from the auction at a certain price, correct?

A Yes.

Q And then are you saying that you would sell it to the car dealer with a bumped up -- I didn't understand what you meant by a "bump up." Are you saying when the vehicle got sold to a consumer, that you would get some of the profit from that sale?

A Correct.

Q Okay, so when you said "bumped up" before, one source -- another source of your income is not just $100 per vehicle, it's the

difference?
A Some cars, yes.
Q You have to wait until I finish the question.
A Okay.
Q Another source of income was the

♀

difference between the price that the vehicle was purchased at, at auction, and the price the vehicle was sold at to the consumer, correct?
A Correct. But it's not every car. Certain cars, you know. Certain cars I get it in very good price, you know, and I get, you know, some, you know, commission for this.
Q Give me an idea about how many of the cars; half the cars you would do that?
A No, no.
Q Roughly?
A No, two, three cars a month, you know, once in a while you get good deals, we will, you know, in the auction, little better something, you get that deal, you know.
Q So when you get that deal, two, three times a month, how much of that difference between how much of that profit?
A It depends when they sell the car. Sometimes 500. Sometime 600. Sometimes, you know, it's not solid. It's a commission. You know what's commission, okay?

Q How many vehicles would you be purchasing a month through the license of other

M. Eltouby

dealerships?

A For all three, how many vehicles? It depends on the market. Sometimes market slow. Sometimes market up, you know.

Q Roughly.

A Average is like, easy, 50.

Q 50 vehicles a month you purchase under the license of which dealerships?

A All three.

Q Three, being?

A Which is Planet Auto Group, you know, Hillside and Hunts Point and what else was in this time back then? And New York Motor Group.

Q So you were doing purchasing vehicles in the name of -- under the license of Planet Motor Cars, Incorporated through auctions beginning in '13, correct?

A Can I correct you?

Q Please.

A Don't forget, I buy under the floor plan company.

Q So --

A It's called Palisades Dealer

M. Eltouby

Funding.

Q Tell me what you mean by that, you buy it through the floor planner.

A Okay, floor plan company is the source, there's a gift to the company, a capital to buy cars to make a profit.

Q Yes.

A The company, the floor plan company, they like to buy the car under their name.

Q Under the floor planner's name?

A Under floor planner's name, yes, they can have the full, you know, asset, you know. And also when car is sold, then they make a reassignment to the company, which is the car sold for, you know.

Q So --

A So this is here floor plan company, Palisades, do you understand? Also, this is here the source, the cars -- the car would stay in, you know. Say, example, that company sold the car, you know, then make a reassignment for this company and say Planet Motor Cars or New York Motor Group or whatever.

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M. Eltouby

Except this is the Hunts Point, this is he own by somebody else, you know, somebody else is they have another floor plan company, it's called "AFC."

MR. SIMON: If you want me to verbalize, I will. If you don't, I can explain this process. Maybe the witness could either then say I'm right or wrong.

MR. KESHAVARZ: I think I got it. It seems clear to me.

MR. SIMON: Okay.

Q The floor planner for Hunts Point Auto Sales is AFC?

A AFC, company called AFC.

Q Is that the full name of the company, those three letters?

A I think this is. It could be a Adesa Funding Company or something like this. It's a floor plan company, I think. You know, I don't know exactly the name, but I know it's called AFC. You can Google it.

Q Who runs AFC?

A Who run?

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M. Eltouby

Q Who runs it?

A A big company. I think hedge fund or something.

Q So they floor plan for many different dealerships?

A For all dealerships.

Q All across the U.S.?

A I think so, yes.
Q How big of a floor planner is Palisades Dealer Funding, do you know?
A I think he do 50 deal. I don't know. It could be maybe more than 50 dealerships.
Q Roughly speaking, Palisades Dealer Funding, LLC does floor planning for approximately 50 dealerships?
A Probably, maybe less, maybe more. I don't know. You have to ask Mr. Hamo.
Q Do you know one way or another New York City dealerships, across the country?
A No, I think Brooklyn, Queens and sometime in New Jersey, I think. Long Island also.
Q Could it be Automotive Finance

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Corporation?
A Automotive, no.
Q AFC?
A It could be. It could be.
Q Do you know where they are located?
A I don't know corporate office. I don't know where it is.
Q Now, going to Palisades Funding, LLC, do you personally know this individual Gadi Ben Hamo?

A Yes, he was a car dealer.
Q He's a car dealer himself?
A Yes.
Q Who does he sell vehicles through? Well, what do you mean he's a car dealer himself, tell me what you mean?
A A company. Car dealer, like, you know, independent car dealer. He's a car dealer.
Q So in addition to running the floor planning company, Palisades Dealer Funding LLC, are you saying Gadi Ben Hamo runs the dealerships himself?

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A I think so.
Q Do you know which ones?
A I think Queens National.
MR. SIMON: Note my objection to the form of the question. You mean runs them or owns them?
MR. KESHAVARZ: We'll take them one at a time.
Q Which dealerships did he run?
THE WITNESS: I would like to know also if he can ask Gadi Ben Hamo himself because I give information for somebody that I don't know what he do.
MR. SIMON: Just to the extent you know. I don't know what relevance this

has to anything of this case at all.
A I don't know if he runs it or he have partner or he is with his wife. I don't know.
Q I'm just asking what you know.
A I know very good that I deal with him.
Q On a day-to-day basis?
A Yes, but I never know the firm of

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the company it belong to him or somebody else. I don't know.
Q In your experience in the auto sales industry, talking about all your experience with all these dealerships and the floor planners that you personally have experience with, is it common or not common for the paperwork, name of the president or owner of the company to be in the name of one person, like a spouse, while the person's actually running the dealership would be someone else, like the spouse?
MR. SIMON: Note my objection to the form of the question.
Q Is that a common practice in your experience?
A I have no clue. I have no idea if he's -- I know I deal with him only.
Q I don't mean just for Palisades

Dealer Funding, LLC. You're working in the United States with auto dealers since '87 and you listed a long list of auto dealerships.

A Yes.

Q You list a long list of auto

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dealerships you've been in business with at that time.

A Yes.

Q You purchased vehicles under the license of those dealerships for many years?

A Uh-hum.

Q Yes or no?

A Yes.

Q And your income, you've been getting your income from dealing with these car dealerships and with the floor planners, correct?

A Yes.

Q So in your experience, is it common for the paperwork for these businesses, like the article of incorporation, the paperwork to be in the name of one person, but the person actually running the business is someone else, like a spouse or family member, is that common in your experience?

MR. SIMON: Note my objection to the form of the question.

A No. It's in the contract, they

say I dealing with Palisades Dealer Funding.

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M. Eltouby

Q Yes.

A They don't say any particular name.

Q I understand that.

A Yes.

Q But what I'm saying is, like Planet Motor Cars, Incorporated, you work for Planet Motor Cars, Incorporated?

A Correct.

Q Did you run Planet Motor Cars, Incorporated from '00 to '13?

A I not ran, but I'm a part of, you know, I was involved in the operation.

Q In what way?

A Operation, buying cars, see what's going on, you know, it's like manage, GM, general manager.

Q You're the general manager?

A Yes, manager.

Q You made decisions about what vehicles to purchase at auction?

A Yes.

Q You made decisions about what price to sell the vehicles at?

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A Yes.

Q You're the one who got most of the profits from the sales of those vehicles?

A No.

Q Who is the person at Planet Motor Cars, Incorporated that got most of the profits from the sales of vehicles from '00 to '13?

A Mohamed Masoud.

Q People spell Mohamed different ways?

A M-O-H-A-M-E-D.

Q So most of the money that was generated from Planet Motor Cars, Incorporated went to Mohamed Masoud from '00 to '13?

A Yes, in the company, in his company.

Q When you say "his company," what do you mean by that?

A He own the company.

Q On paper he was the owner of the corporation?

A Yes.

Q He's the sole stockholder in the corporation?

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A He's owner.

Q And you were essentially the general manager at Planet Motor Cars,

Incorporated?
A I was manager.
Q Was there any other manager there?
A Couple of them.
Q Above you or at the same level, below you?
A Same level. Little bit under, something like this.
Q What do you mean by you managed Planet Motor Cars, Incorporated?
A Buying cars.
Q And you determined the price to purchase the vehicles at?
A This is sales manager, he decides for the price.
Q The sales manager goes to auctions with you?
A No, sales manager, he decides the price of the car.
Q Of the sale of the vehicle?
A Correct.

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M. Eltouby
Q But you made decisions?
MR. SIMON: Listen to the question because he was asking you who made the decisions at what price to purchase the cars at auction.
A Purchase cars? I purchase cars.
Q You made decisions about what

price to purchase vehicles at, correct?
A I buy the cars according to that market value in this time, you know, it's called MMR, Manheim Remarketing, which is biggest auction in the U.S.
MR. SIMON: He's saying when you go to auctions, whatever the auction price is, he doesn't set the auction price.
THE WITNESS: They show you same car sold last week for this much money, you know, this is according to this I buy.
MR. KESHAVARZ: Read back my last question and the answer.
(Record read.)
Q You make decisions about which

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vehicles to purchase at the actions, correct?
A Yes, depends on what we sold. Say, example, the most selling car is the Nissan, I buy Nissan.
Q So is the price at the auction negotiable at all?
A No, it's an auction. You know auction?
Q Explain it to the jury.
A It's an auction. Person in the front of the person, 24, 25, 26, 27.

Q Why don't you explain to a jury, who has no idea about what an auction is, just explain basically how that process works.

A It's an auction. In the U.S., lot of auctions about everything, about merchandise, about cars, about machine, about everything is auction in the U.S. It's a big state for auction. Auction is a come -- one auctioneer, somebody bid against you, you know. If you wanted the vehicle, you bid against him or couple different people, you know, until you're last one, last bidder, then they take the car.

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Q And the auction house you go to, is that Manheim?

A Manheim, yes.

Q And is that how it works at Manheim?

A Yes. In every auction, not only Manheim. Manheim, every other auction.

Q Tell me the mechanics, I know how auction works at Manheim, but tell the jury how it works, like there's a row of vehicles.

MR. SIMON: Objection when you say "tell the jury," because he's only answering questions here. There's no jurors here, but are you referencing it goes to the highest bidder, you want him

to explain that?
Q Explain the process, you go to Manheim --
A I explain to you before. You not understand.
Q -- you walk in, what do you see, how does it work?
A This is the car coming to the lane.

Q Exactly, that's what I mean. The lane, how does that process work?
A The car come to the lane and start bidding on the car until you get -- if you are last bidder.
Q So the price, there's a base price that bidding starts at; is that right or not?
A It depends on the car. Example, value 15,000, you cannot start with $5,000, you know.
Q So I'm just trying to figure out -- the price that the vehicle you purchase at Manheim is determined by bidding for the purchase price of that vehicle, correct?
A Correct.
Q You would be one of the people who bids for?
A Correct.
Q So you make decisions about at

what point you want to purchase the vehicle at what price and what price not to, correct?

A Yes.

Q And you make that decision for all of the dealerships on whose license you

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purchase vehicles at, correct?

A Correct.

Q And do you say you purchase around, roughly speaking, 60 vehicles for the dealerships per month?

A For all the dealers. It depends on value of the -- you know, the car business is up and down, you know. One month you selling only 20 cars only or 30 cars only, one month is 60, one month is 50, one month is 40. It's not steady.

Q But on average you think about 60 cars a month?

A Not really.

Q 50 cars a month?

A About. It could be less, you know.

Q Something like that, around 50?

A Yes.

Q Is that for the whole time period you were purchasing vehicles under the license of a different dealership from '00 to present?

A Correct.

MR. SIMON: My client wants to put

on the record we're talking about procedures at Manheim on acquiring vehicles at auction. Quite honestly, Manheim's, you know, one of the biggest or one of the biggest in the country. My understanding there could be hundreds and hundreds or thousands of dealerships and it's only for licensed approved dealerships bidding at any auction. I believe they have multiple lanes, sometime five lanes, six lanes at any time. Some dealerships are present in person. Some are bidding online at real time.

But, I mean, to go through the whole Manheim process as irrelevant to this case therefore, I object to any of these questions about Manheim conducting its business.

Q Is that factually correct about what your attorney said about how the process works?

A Correct.

Q When you were making decisions

about which of these vehicles to purchase, roughly 50 a month on average, about how many vehicles do you go through to make a determination?

A How many?

Q Vehicles do you go through, say, in a day?

A You buy how many vehicle?

Q Yes, like you look at 100 vehicles, you purchase one of them.

A No, it's a week.

Q A week?

A The auction is every week.

Q How many do you look at before you decide how many to buy? You look at 100, you decide to buy one?

A Say company sold already this week five cars or six cars, I say I got to replace every dealership sold. If they sell, example, ten cars a week or nine cars, I have to go to auction buy some cars. Sometimes I buy 10, sometime 11, you know, it depends on price in auction.

MR. SIMON: Off the record.

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M. Eltouby

(Discussion is held off the record.)

Q So let's take it one at a time. Planet Motor Cars, Incorporated, does that company have any relationship with the other dealerships that you mentioned?

MR. SIMON: Note my objection to the form of the question. You're assuming it's still in business. You're asking in the present tense?

MR. KESHAVARZ: Wait. Object to form of the question.

Q Sir, if you don't understand one of my questions, will you please ask me to rephrase it?

A Okay.

Q If I ask you a question and you don't ask me to rephrase it, is it reasonable for me to assume you understood the question?

A Okay.

Q Please, just let me know if you don't understand.

A Okay.

Q You were purchasing vehicles under

the license of Planet Motor Cars, Incorporated from '00 to '13, correct?

A Yes.

Q Did the company stay in business after '13?

A I don't know. I don't buy from them anymore. The company is still open, I think.

Q You think it is?
A Uh-hum.
Q Do you know where the company operates, where's the car dealership?
A I don't know.
Q Do you have any official role at Planet Motor Cars, Incorporated?
A Official?
Q Yes.
A What do you mean "official"?
Q Do you sign any papers on behalf of Planet Motor Cars, Incorporated?
A Yes.
Q What kind of papers?
A Whatever, any papers, you know. I was an owner.

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Q You were an owner of Planet Motor Cars, Incorporated?
A Correct.
Q Who else were owners of Planet Motor Cars Incorporated? You were the owner?
A I was a member because it's an LLC.
Q I thought Planet Motor Cars was Incorporated, it was not an LLC?
A Corporation, incorporated.
Q So what you're calling you're a member, might be shareholder, might be a

member, whatever you're calling it, who were the other owners of Planet Motor Car, Inc. other than yourself?

A Who's the owner in Planet Motor Car? I was not owner.

Q Were you a member?

A No, not even member. There's an incorporation, I was manage.

Q Were you a manager?

A I was manage, yes.

Q Were you the president?

A Manage is not president. Manager.

♀

Q Was manager your title there?

A No.

Q Did you have a title there?

A Manager.

Q Other than that?

A Manager.

Q The money from the sales of the vehicles at Planet Motor Cars, Incorporated, did any of that money go to you other than the $100 per -- other than $100 fee and maybe occasionally if you got a good deal, maybe two to three cars a month you'd get a little bit of a commission from that sale; other than that, did you get any money in any way, shape or form from your association at Planet Motor Cars, Incorporated?

A No.

Q That's true for all of the dealerships you listed, any money you've ever got from them was $100 per vehicle or a little bit of a commission from the two or three vehicles you might get a good deal for, correct?

MR. SIMON: Note my objection to

the form of the question.

Do you understand what he's asking?

THE WITNESS: No.

MR. SIMON: You don't understand the question?

THE WITNESS: No.

Q Please, ask me to rephrase it.

A Rephrase.

Q One source of income you got from the list of dealerships that we had talked about is the $100 per vehicle fee that you got from getting it at auction, right?

MR. SIMON: Note my objection to the form of the question. You're referring to the list of the last five years or the list from '85 on?

Q Let's talk from '87 on. I think your answer was the same, right, from '87 on?

A From '87?

THE WITNESS: Let's talk about '00 on, that's fine. Fair enough?
MR. SIMON: '00 on, okay.
THE WITNESS: Yes.

♀

M. Eltouby

Q Your only source of money from any of these dealerships, and we went through the long list.
A There was not -- okay, continue.
Q Well --
A Repeat the question.
Q The dealerships that you are associated with doing any work for either volunteer, as a finder, as a commission, as an owner, as manager, as operator, as employee, from '00 to present, one was Planet Motor Cars, Incorporated, correct?
A Yes.
Q And you were a manager there, correct?
A Yes.
Q And one was Planet Auto Group Incorporated, correct?
A Planet Auto Group, yes.
Q Incorporated?
A Yes, from '05.
Q You purchased vehicles there from '05 to present?
A Yes.

M. Eltouby

Q And did you have any other role at Planet Auto Group, Incorporated?

A In this period from '00 and '05 to present to '13 is Planet Motor Cars and Planet Auto Group.

Q From '05, go ahead.

A I'm sorry, I cannot hold my urine.

MR. KESHAVARZ: Take a break.

(Discussion is held off the record.)

Q Before we went through the dates that you were purchasing vehicles at the auction house using licenses of different dealerships. Do you know if those dates are the same dates that the dealership was in operation or do you know, were they in operation longer than the period you were getting vehicles for them? I can go through them one at a time if you like.

A Go ahead.

Q Planet Motor Cars, Incorporated, do you know when that was in operation, from when to when?

A I was buying from when to when?

M. Eltouby

Q You were buying for them from '00 to '13, correct?

A Yes.

Q Do you know when they were in operation from?

A I don't know.

Q They were in operation before you did anything?

A Yes.

Q Do you know how long they were in operation prior to that?

A How long's operation?

Q How long Planet Motor Cars, Incorporated was in operation prior to you purchasing vehicles there in '00?

A No, I think from '98 until '13.

Q Who is your boss at Planet Motor Cars, Incorporated?

A Mohamed Masoud.

Q He's the person you report to?

A Yes.

Q You dealt with him on a daily basis?

A Not on daily basis. He doesn't

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live here.

Q Where did he live at the time?

A He come in and out.

Q To where?

A He live in Cairo.
Q How often would he be in the U.S. at the dealership or was it pretty much an absentee owner?
A I don't know how many. I can't count, but he was off also many times here.
Q So most of the time when you were purchasing vehicles at Planet Motor Cars, Incorporated, would you say most of the time he was not in the United States?
A No.
Q Okay, any family members of yours have any relationship to Planet Motor Cars, Incorporated?
A No.
Q Magdy Eltouby is your spouse?
A He's my son.
Q I apologize.
What's your wife name?
A Wife name? I'm not married.

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M. Eltouby

Which wife? I married three times, four times. Which?
Q Your last wife?
A First one.
Q Okay, from what period? When were you married last, what period of time?
A I not married. I live with somebody.

Q Are you currently with her?
A Yes.
Q How long?
A I think from '95 until present.
Q Until present.
Any children?
A Yes.
Q Name?
A I have Magdy Eltouby, which is from my first marriage in Germany.
Q How old is he?
A He's born 1978. He passed away in '11.
Q I'm sorry to hear that.
Who else?
A Nada Eltouby. She's from second

marriage.
Q How old is she?
MR. SIMON: She was deposed in this case.
A 25.
Q Anyone else?
A Menah Eltouby, she's 23 years old, same wife as Nada.
Q Yes.
A Then Sarah Eltouby, born '96, she's from present lady that I'm living with right now. And then Youseff Eltouby, he's 16

years old.

Q Now, are any of your children involved in any way, shape or form with any of the dealerships that you discussed so far?

A No.

Q Have they ever been involved in any way, shape or form with any of the dealerships you've discussed?

A On paper?

Q In any way, on paper.

A Nada, she was watching dealership, which is, she was working training in Atlantic

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Kia, you know, and then working for BMW. She training for new car and then she work in New York Motor Group, that's it.

Q Do any of your children have any relationship either on paper or in actuality with any of thr dealerships you mentioned?

A No.

Q Are you sure about that?

A My daughter or my son?

Q Any of the people, any of your children, did they have any relationship in any way, shape or form in practice or on paper with any of the dealerships that we've discussed so far?

A No.

Q You're certain about that?

A Yes.

MR. SIMON: Note my objection to the form of the question as to relationship.

Q Well, do you understand what I mean by "relationship"?

A Yeah, you say children.

Q No, relationship to dealers. Are

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they on the papers of any of the dealers?

A Children -- my children?

Q Yes.

A Exactly your question?

Q Yes. We talked about Yousef, Magdy, Nada, Menah and Sarah?

A I think Magdy, he had relation to Planet Motor Car.

Q What was Magdy's relation in Planet Motor Cars?

A He was, you know, part of corporation with me, Mohamed Masoud.

Q I couldn't hear you?

A Part, like what you call it, part of the corporation with Mohamed Masoud.

Q He was one of the officers?

A He was one of, yeah.

Q Were the profits from the business going to Magdy?

A Not really. He was taking salary,

big salary, you know.

Q How big?

A He was making between $6,000, $7,000, you know, a month because he was a

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finance manager, also.

Q Did Magdy work at Hillside at any point?

A He passed already. No.

Q He never worked at Hillside?

A No.

Q Did Menah ever work?

A Menah, she's a college girl. She's still in college.

Q She never worked at Hillside?

A She come in couple time to look at everything with me, you know, to see what's going on, you know, but she never work over there. She's college girl. She still in college. She study.

Q Your partner, Ms. Ibrahim, has she been involved in any of the dealerships you discussed?

A Ms. Ibrahim, she involved in Hillside Motor.

Q Is she involved in any of the other dealerships?

A No.

Q When you say she's owner, what do

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you mean?
A She's a member, LLC.
Q Are there any other members of Hillside Motor, LLC other than her?
A I don't know. No knowledge about it.
Q What's your relationship -- you consulted at Hillside Motor LLC from '13 to present, correct?
A Correct.
Q You purchase vehicles at the auction under the license of Hillside Motor LLC, correct?
A Correct.
Q And Palisades Dealer Funding, LLC is the floor planner for those vehicles, correct?
A No.
Q Who is?
A Auction. Manheim Auction.
Q Manheim is the floor planner for the vehicles at Hillside?
A Yes, Manheim Auto Auction.
Q You said another name before

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Manheim. Atlantic something or no?

A Atlantic?
Q Maybe I misheard you.
A You were pronouncing Palisades. Palisades Dealer used to be the floor.
Q Do you know when that changed?
A I think sometime last year.
Q Do you know why that changed?
A I think interest rate.
Q Other than purchasing vehicles at auction for $100 fee, did you have -- or vehicles, did you have any role at Hillside Motor, LLC or do you --
A They raise me. It's not $100.
Q How much?
A 150.
Q That's for all the dealerships that you currently work with?
A Yes, from '00 until now.
Q Do you have any other role at Hillside Motor, LLC other than buying from auctions under their name?
A No. Under what name?
Q Under the license of Hillside

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Motor LLC, do you have any other role at Hillside Motor?
A What do you mean "role"?
Q Any role at all. Do you ever go there, do anything for them?

A Oh. Yes, as consultant, buying and consulting, too. I am vice president for New York Independent Dealer Association.

Q Your vice president of New York...

A New York Independent Dealer Association.

Q What does that have to do with Hillside Motor, LLC?

A You know, help any dealership for anything and experience, you know, for long business, long time in business and experience, you know.

Q So are you physically at Hillside Motor, Incorporated during the week?

A No, I'm at Planet Auto Group most of the time.

Q Planet Auto Group, Incorporated?

A Yes, next to my house in Huntington.

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Q What's the address of Planet Motor Group, Incorporated?

A 338 East Jericho Turnpike, Huntington, New York 11746.

Q You say that's right next to your home?

A Yes.

Q Is that why you are there particularly?

A Most of the time.
Q From there you go to Hillside, sometimes then you go to Hunts Point sometimes?
A No, most of the time I go to auction.
Q Okay. Now, I asked you this before, but I want to make sure I'm absolutely clear. You've never purchased a vehicle using a license of one of the dealerships that is sold by another dealership, right?
A Sometimes the dealership between each other, you know, is still until now, you know, if you buying a car, this is called -- and website called OVE, this is cause between dealer to dealer, you know. Say I buy a car, I

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cannot sell it or you have dealership, I have dealership, you want to buy the car, this car, I can give a number, you know, I put it in this site and write number with profit, you know. Say, example, I bought car for 15, we put it in OVE with 16, and then when you buy it, then transfer from this company to this company with a reassignment. You got it?
Q Yes, thank you.
Were there a lot of reassignments in particular amongst the dealerships that you mentioned?
A I don't know. I cannot recall.

Q Between Planet Motor Cars, Inc., Planet Auto Group, Inc., were there a lot of reassignments from those and New York Motor Group, LLC?
A Could be.
Q That's pretty common?
A Could be very common, yes.
Q Could be or was it very common?
A Could be because customer go, this way you can have a car here, you can send it over there and wholesale it to different

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company and they sell it over there instead you losing the customer. Common sense.
Q Well, have you read the deposition transcript of Mr. Estrada?
A No, I never did.
Q Well, he testified under oath that when customers felt like they were being ripped off by one of the Planet Car dealerships, that he was sent by you to bring that customer to New York Motor Group so they can purchase the vehicles from New York Motor Group. Is that true?
A Not true.
Q Have there been any complaints by any customers that Planet Motor Cars, Incorporated or Planet Auto Group, Incorporated?

A You can search about Planet Motor Cars and Planet Auto Group is zero, you know, complaint very, very minor. Maybe one or two customers. This is only having -- complaint only was Mr. Estrada coming to my company, you know, and destroys it. Yes, this is the one, this is the bad guy.

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Q Okay.

A Bad person.

Q And he worked at New York Motor Group for you?

A Correct.

Q Did he work anywhere else for you?

A No, just New York Motor Group.

Q He had no relationship whatsoever to Planet dealerships?

A No.

Q Were any complaints by customers --

A Yes.

MR. SIMON: Let him finish the question.

THE WITNESS: I'm sorry.

Q Have there ever been complaints by any customers at Planet Motor Cars, Incorporated?

A No.

Q Ever been any complaints by

customers at Planet Auto Group, Incorporated?
A No, very minor.
Q Such as?

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A Could be one, two, several years ago, you know, you cannot be you have a company already exist in New York City also from '00, example, until whatever, you understand, and is no zero complaint. I would be lying to tell you, yes, some people are not satisfied, they go to civil court, but not big, like what happened we ripping customer or stealing money from them, this, this, never this happen, never. Big cases, criminal cases, never, you know. This is most of it, Small Claims Court, you know, some minor stuff.
Q I'm trying to get the level of complaints. Let me make sure I'm clear on your testimony. Has Planet Motor Cars, Incorporated ever had any complaints by consumers?
A By consumer, yeah, some of them very little. Very minor. Say, two percent.
Q Two percent of all consumers?
A In all long run, two, three percent most.
Q If 100 consumers purchased vehicles, two, three of them would have complaints?

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A It could be, yes.
Q But those would be very minor complaints?
A Yes, repair some stuff, you know, need extra key, something.
Q Something like that?
A Yes.
Q That's also true for Planet Motor Group, Incorporated?
A Planet Auto group, yes.
Q Is that also true at Hillside Motor, LLC?
A Yes.
Q That you might have two or three complaints out of 100 for minor things like minor repairs or keys or something along those lines?
A Yes. As you can see, this is already all of this in website now. Something called "Internet." Internet, this mean you can see a -- view all complaint about consumer. They write in complaint. You can go to Consumer Affairs, you can go to Civil Court, you know. All of this you can see exactly by

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yourself. It's just only this particular employee, which is called Mr. Estrada, I would never think the stuff what he did. He's a bad person. And he did the same thing by -- at a company, Auto Palace. He come to me telling me "No, this is not me, you can ask D.A." I ask the D.A. The D.A. tell me this is -- he already have no more, they settle. He don't do anything and he's free, you know. He tell me he's free and this all things he did. Something wrong. It was not him. It was owner or whoever, you know. He threw everything on owner, you know.

Q At Auto Palace?

A Auto Palace. If you read complaint about Auto Palace, it's same thing complaint to New York Motor Group, you know. He's a bad employee. He's a bad person. And I wouldn't know.

Q When is the first time you had any indication that Mr. Estrada was doing bad things at New York Motor Group or anywhere?

A Yeah, this is in August, also after he work.

Q When?

A In August, also after he had -- in the beginning he was working very straight, you know, because he was under my vision. I was -- go by myself. I was -- in the beginning he was working straight until customer come out, they check and say "I'm satisfied."

In the end of it, by August, July, he started to do some stuff, which I was not watching, you know, I think I tell my daughter, "Please if you can, see if he do anything to any customer."

But the problem is, most of the customer speak Spanish. My daughter, she don't understand Spanish, you know. She could not stay in the office because most of the people come speak Spanish, you know, and the people come and asking about him. When you try to speak with the customer, they speaking only Spanish, you know.

I get somebody who was working for me as a porter, you know. I tell him "Translate for me what guy come here all the time, I want to know. He say he have a

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business with Julio Estrada direct. He cannot talk to only -- nobody except to him. And when he come in, I ask him "What's wrong with this guy?" He tell me anything. "Yeah, yeah, I know him, this is my friend and this, this," you know, I never think he do any bad stuff.

Q So the first time you had any indication that Mr. Estrada was doing bad stuff anywhere was in August or July of '13?

A August he was -- you know, August he start to be wild, you know, he do so many things. This is -- I don't know. He go to customer in her house 11:00 in the night. I have no control of this, you understand? He go to people outside in Dunkin' Donuts. There is a guy in Dunkin' Donut, he works there. He convince him he get him car from California. I don't know this. The customer come and asking about him couple time. I tell him "What do you have?" He show me a contract to the customer, it not belong to me. It belong to, he say, DLR. I don't know who is DLR. And the customer name and other side is DLR, the dealer. It's not me, you know. And he tell

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him he get him a car from California. I don't know what to tell customer.

Q So August '13 is the first time you had any indication that Mr. Estrada was doing anything --

A Yeah, I started to see -- I'm sorry.

Q August '13 is the first time you had any indications that Mr. Estrada was doing anything bad, correct?

A Yes.

Q He started working there in November of '12; is that correct?

A December '12 -- no, January '13.

Q He testified, I believe, that he started working there in the middle of November of '12; is that untrue?

A No, that's not true. He was coming in and out. He try to hire, you know, hire him and he close some deal helping other friend he used to working with him in Auto Palace, his name is Angel Santiago. He was in this time he was working for me, Angel Santiago, as a finance.

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Q But so he was closing some deals?

A He was coming helping him.

Q Close deals in the name of New York Motor Group?

A He was coming to help him, Angel Santiago, to close for him the deal and he show me also he do the deal because other guy, he doesn't know too much about finance.

Q When you say "close the deal," you mean close the deal in the name of New York Motor Group?

A Correct.

Q So he would close deals in the name of New York Motor Group beginning in the middle of November '12; is that true?

A Middle? I doubt it. It was end of December, I think. In December '12 from my knowledge, end of December. Not in November.

Q So these were vehicles from Auto Palace that were being closed in the name of -- where did Angel Santiago work?

A He used to work for Auto Palace. When Auto Palace close, he come before they close, he come work for me. He feel this is

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dealership something wrong. Then he starts coming working for me.

Q To your knowledge, were finance companies refusing to do business with Auto Palace?

A Yes.

Q And for that reason were some of those deals that started at Auto Palace financed through finance companies through New York Motor Group?

A No.

Q So Estrada testified, I believe, his testimony will be whatever it is, that there would be customers at Auto Palace, finance companies all cancelled their deals with Auto Palace because of allegations of fraud, they then brought those customers to New York Motor Group and New York Motor Group would arrange for financing, is that true or not?

A Not true.

Q How long did Mr. Estrada do work

for New York Motor Group after August of '13?

A He working until November. In the beginning of December, I already called the

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D.A. and tell him, you got to get this guy out. I speak with his lawyer, you know, which is -- what's his name? His name is Jimmy Casers.

MR. SIMON: I think --

MR. KESHAVARZ: Mr. Simon, you can't say anything other than object to form.

Q When did you speak to the D.A. or Mr. Estrada's attorney?

A When I see people coming back, customers coming back and starting calling police, you know, and I see the guy is not here, up and down, you know, comes once in a week, twice week and most of the time he is not there.

Then I starting see customers coming back, you know. Then I speak with Mr. -- also the D.A. I say -- you know, he tell me you have to get the guy out as soon as possible. When he coming back, you know, I tell him, you don't need to work here any more.

Q But did he continue to work there for some period of time after that after you told him?

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A No.

Q You told him that in November of '13?

A November '13.

Q When did you first speak with the D.A. about Mr. Estrada?

A I speak with Mr. -- when I see -- when I see the contract, something contract for people is not -- contract is not belong to me and people come to my dealership asking where is him.

Q The name of the dealership would not be New York Motor Group?

A No.

Q Would the name of the dealership be Auto Palace?

A No, DLR. I don't know.

Q Were the names of the dealerships on the contracts in the names of anyone else other than DLR?

A The customer name and DLR only.

Q About how many contracts were coming in under the name of DLR?

A Couple of contract. It's about

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easy -- about four or five that what I see.

Q You actually saw four, five

contracts --
A Yes.
Q -- in the name of DLR?
A Yes.
Q Those are customers who came to New York Motor Group to purchase a vehicle, the contract said DLR, correct?
A Correct.
Q None of those vehicles were on New York Motor Group's lot?
A No.
Q Do you know how he showed them a vehicle that he sold them without it being on New York Motor Group's lot?
A Internet. It's shown on Internet car, in search for car anywhere. And tell him this going to be your car and write number and everything.
Q How do you know that?
A I see.
Q How do you see it?
A I see it with customer when they

come show me.
Q Customers showed you what?
A Show me the contract.
Q But you said that Mr. Estrada got cars by the Internet, correct?
A Yes, he take information from car

in Internet, yes.

Q How do you know that? How do you know that Mr. Estrada took information for cars sold under the name of DLR from the Internet?

A Customer telling me.

Q Customers ever tell you whether they saw any of the vehicles on New York Motor Group's lot?

A No.

Q Did they say they ever saw any of those vehicles in person?

A They see the cars in Internet. He showed to him in Internet.

Q Any customers say they saw the vehicle in person?

A No.

Q Do you know how the vehicles that were delivered to the customers, exhibited

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vehicles in the name of DLR?

A It was never delivered anything.

Q So they signed contracts, but no vehicles ever delivered?

A Yes.

Q And --

A They take from customer deposit and put it in his pocket.

Q And he took the down payment from the customer while he was at New York Motor

Group, physically at New York Motor Group?

A No, he go to customer in the business and their business, not in New York Motor Group. He go to in the house, customer. I tell him, where you give him the money? He tell me, he come to my business. One guy, he work in Dunkin' Donuts. He go to Dunkin' Donuts. One lady, she in the, 11:00 in the night he go to her house.

Q Were there any other complaints that you saw or learned about from Mr. Estrada's work that dealt with something other than the four, five contracts in the name of DLR?

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A Yes, he did. When he left already dealership, he take bunch of the information from customers there he did with them, you know, and call customer and text message customers and people come in to me and tell me, show me the text message he tell them, you know, customer, example, he owe $17,000 to the bank, to Santander, any particular bank. Customer he owe $17,000. He called customer and he tell him, "Listen, if you pay today 5,600 and something, your loan is paid." Then customer, he bring -- he meet with him in the bank and give him the cash and the D.A. -- he filed a complaint to the D.A. Then D.A. come to me, then he take the phone number for Julio Estrada. He tracing the phone, you know, he tracing the phone. He see text messages and he arrest him inside the bank. When customer pull money and tried to give him, he come and arrest him in the spot.

Q Other than that one incident when they were arrested and charged by the D.A. and the four or five contracts in the name of DLR, were there any other complaints about deals

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involving Mr. Estrada at New York Motor Group?

MR. SIMON: Note my objection. By whom?

MR. KESHAVARZ: Objection to form.

A By who?

Q Any customer ever complain about any deal that Mr. Estrada was involved in at New York Motor Group other than the four or five contracts in the name of DLR and the one incident where Mr. Estrada was arrested?

A I don't know. Could be asking this question to D.A. because most of the people who was in the D.A. complaint.

Q Well, they would come to the dealership and complain?

A No, complaint to the D.A.

Q I don't mean criminal.

A It was complaint in the D.A. about

Mr. Estrada.

Q You mean the criminal complaint, right?

A Yes, around lawsuit.

MR. KESHAVARZ: Off the record.

(Discussion is held off the

record.)

Q Sir, we were talking about complaints that you were made aware of for items where Mr. Estrada was working at the dealership. We had talked about four to five contracts that you had personally seen in the name of DLR, correct?

A Yes.

Q These were customers that were coming back to New York Motor Group and saying "We made this deal with Estrada here, but the papers say DLR," is that right?

A He was coming to talk only with Mr. Estrada. I bargain to him, tell me what's the problem. Finally, I get somebody, Tripod (phonetic) to translate because most of them speak in Spanish language, you know. Then I get guy, ask him to tell me what's the problem. Then he starts saying "Mr. Estrada come to my business, he takes from me this much and this much and he tell me this car, I get car from you."

Q Correct me if I'm wrong, consumers were saying while he might have gotten some of

the cash while not in New York Motor Group, he actually did the deal at New York Motor Group, weren't consumers telling you that?

A I don't know exactly because I was not present. I was not present. I don't know if -- I believe this is the guy he went already and when I catch him, guy in Dunkin' Donuts, he take from him money at Dunkin' Donut, you know, this is -- this one I catch.

And then also besides this, he was lying to the customer. They come back to tell them, okay, say, example, the fact for payment is high, they tell him "After three, four months come over, I make for you the payment is low, you know." Like he was making exact -- make exact in Auto Palace. I read complaint. This is from people, exactly same complaint like me. He tell lie to people to come back and to sign contract. For example, you know, from -- you know, payment, say, example, $500, he telling people you got your payment, after 200 after couple months, you know, people believe him, but not in writing, nothing in writing. People only believe.

Q So customers would be coming back to New York Motor Group?

A Yes.

Q And say "When I went to New York Motor Group to buy a car, Estrada told me that after three months or four months or something like that, I can come back and interest rate would go down?

A Correct.

Q How many customers said that?

A This is many customers, you know.

Q Dozen, two dozen?

A No.

Q Three dozen?

A This is what I know, what I see is, you know, couple is like three or four of them, five, six, something like that.

Q So three, five, six, those are customers you talked to directly that said that Estrada sold them a vehicle at New York Motor Group and Estrada told them come back in three months or six months that the interest rate would go down, right?

A Yes. It's not I talk to them. My

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daughter call me. Customer come in here mad, he wants refinance, according to Estrada tell him this, "You come refinance, your payment going to be lower."

Q So some of those customers you knew yourself. Some of the customers your daughter called you and told you about?

A Yes.

Q Were there any other complaints other than the three to six consumers that came back and said, "Estrada sold me a vehicle, they said come back three, six months, refinance." Other than that, the D.A. and the four to five DLR contracts, were there ever any other complaints at New York Motor Group for the time period, say, November '12 through, say, December of '13?

A I don't know.

Q Well, you don't know or there weren't any?

A No, I don't know.

Q Were you physically at the dealership at New York Motor Group from the time period of December '12 to December '13?

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A In the beginning I was watching everything going smooth, you know. Until I get busy buying cars at auction and they take advantage when I was in auction, "I make deal," they tell people probably -- probably, I don't know, "Come in this day, this day," you know, the day I decide to go to auction.

Q At your daughter's deposition she testified, as I recall, that there were video cameras and everything was video-recorded?

A Correct.

Q All transactions in Estrada's office, every room in the trailer at the dealership, everything was recorded all the time; is that true?

A Correct.

Q And that's both video and audio recording, correct?

A No, audio in the last -- in the -- sometime in August when I feel start to be dangerous, I put audio but video all the time.

Q August of '13?

A Yes, in the middle of August '13.

Q That's the first time that you

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began audio recording?

A I bought audio and also in meantime, I see the whole hard drive was stolen, it disappear.

Q When did you find that out?

A This is in August '13.

Q So all of the recordings were saved on the hard drive?

A Whole big machine like this stolen, you know.

Q Were the recordings saved?

MR. SIMON: Just for the record --

MR. KESHAVARZ: Wait.

MR. SIMON: No, I'm saying something right now.

MR. KESHAVARZ: No, you can't object to form.

MR. SIMON: She couldn't take down the distance between his hand. I'm going to say what the distance was between his hands because she couldn't say he said, "Like this." I'm going to say his hands are about six inches, eight inches, whatever, you saw it, but

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I don't want the record to be ambiguous because he said, "It's like this," and nobody reading that record could understand what he said. So let's clarify it, that's all I'm asking for.

THE WITNESS: Which is correct.

Q Let's go back to the question. You said in August '13 you determined what was stolen, what disappeared?

A The hard drive.

Q How big is the hard drive?

A A machine. Hard drive machine recording everything. This is about 12, 13 inches long and wide about, you know, 10 inches.

Q And where was that hard drive?

A That was in storage office.

Q How long have you been video recording the transaction at New York Motor Group?

A From the beginning. All the time I have it.

Q Why did you only do it by video?

A Excuse me?

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Q Why did you only record video and not audio?

A Only I was doing video only.

Q Why?

A Because I want to see if anything happen, transaction of any complaints, then I repeat it, you know. I see if anybody's stealing cars from my business, anything gets stolen, you understand, this got to be shown.

Q You mean stealing cars from the lot?

A Yes, stealing cars from the lot, customer come in and violate or any violence, you know, anything happen, I can return also the view of the tape.

Q Was there any other reason why you were recording just by video other than to make sure people weren't stealing cars off the lot and customers were not acting violently, any other reason why you were videotaping only by video, not by audio?

A Only by video. Also, customer see when he sign the contract. If the customer come and say, "I not sign the contract," I

review the tape, I see when customer he signed the contract.

Q Well, in your experience customers often say that, they're at any dealership, that the finance person, someone at the dealership lied to them about the contract. I mean. That's a pretty common complaint, right?

A Well, sometimes when customer he want to get out of the deal, you know.

And lady come to me second day or third day with her husband, she tell me -- her husband he tell me she not knowledge about this. And she was very well educated. She signed a contract, you know, and I say -- and she come and she complain. I say, "Okay, no problem, you don't like car, no problem, we take car and refund her money. Goodbye."

Q Wouldn't you want to know if you know the customer comes in, let's say, whoever's telling the truth, doesn't matter, I'm just saying one common complaint at dealerships, for example, customers might want to change their mind later, then they'll say, "Well, the finance person said this to me and

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it wasn't true," that's a common issue you see at dealerships, right, at any dealership?

A Say again.

Q Isn't it common in your practice that for whatever reason a customer will come back and say, "I was lied to by the dealership," maybe they changed their mind about the deal, buyer's remorse, that's a fairly common complaint at dealerships; is that your experience?

A Very minor when somebody come tell us.

Q When that happens, wouldn't you want an audio recording for finding out for sure what was said?

A Only when customer come say, "I not sign the contract."

Q So your only interest if they're physically signing it, your interest was not about what you were told, is that what you are saying?

A Yes, sign the contract, sign the contract and sometime the customer sign, he say, "Oh, I not sign, this not my signature."

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I say, "Excuse me, sir, this --" we rewind tape, show him when he signed the contract.

Q Was the recording saved anywhere else other than this 12 by 13 inch hard drive?

A Yes.

Q Was it recorded anywhere else other than the hard drive?

A Recording only all transaction in the business.

Q It was recorded onto only one hard drive?

A No, two hard drive. In the machine, it's two hard drive.

Q One was --

A One was full, it would record on other. It switch automatic.

Q Were the recordings erased or you obtained all of the recordings at the very beginning of opening of the dealership?

A From opening dealership, but recording after eight days they erase by itself.

Q Why?

A This is what the setup exactly in

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the machine.

Q Who set it up?

A This is how -- unless you get

every other month another hard drive, which hard drive this got to be taken this all the recording for 36 days in a year or something, you know, it's very hard.

Q Any other reason why it would record over the hard drive every eight days?

A This is all system for when you buy any system, this got to be same thing.

Q Who set up the system?

A It's not set up. This is the company, they sell hard drive like this, the machine, like this, you know. It's not set up. This is the machine buying -- every eight days you understand is the recorded again from beginning.

Q When you want to record the audio from Mr. Estrada because you were concerned he was ripping people off, that's the reason why you did it, right?

A I put audio because I want to listen what he say to people, but because I

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tell him never -- say customer, okay, you coming back, and when he refinance for him, this, this, I see in the first charge he was lying to the customer and saying this and he say "No, I never say this."

Q You set it up for audio in August of '13?

A Yes.
Q You noticed it was gone in August of '13, correct?
A I know what?
Q You also noticed the hard drive was gone in August of '13?
A No, once stole -- it was stolen from my place, I call company right away to get replaced.
Q When was that?
A In August.
Q So you started audio recording --
A You know, I replace it.
Q You started audio recording it in the same time that you are saying the hard drive got stolen, correct?
A I starting?

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Q The same month you started audio recording, is the same month that the hard drive got stolen, correct?
A Correct.
Q How long were you recording audio before the hard drive got stolen?
A How long?
Q Yes.
A Since I open the company.
Q Was the hard drive stolen before or after you were recording audio?

A Before I -- again, tell me again.
Q Sure.
Was the hard drive stolen before or after you started recording audio?
A Audio, this mean talk, right? Yeah, this is after stolen and then after this, I bought another hard drive with audio, yes. You got it, yes.
Q Because you had the hard drive with audio because you wanted to monitor?
A Exactly.
Q And keep a record of what Mr. Estrada was telling people?

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A To listen.
Q But you also wanted to have a recording in case a customer came back later to complain, you also wanted to have a recording for that purpose, too?
A Correct.
Q For Mr. Estrada, in particular?
A Correct.
Q Did you change the setting so it could record more than eight days after audio?
A New system starting only if somebody is motion. Say, example, in night, nobody working in the trailer, it's not recording. When anybody come in or outside and motion, then it started recording.

Q And how long would it -- I guess, I'm trying to figure out after you got the new drive and started recording audio, did you keep the audio and video for more than eight days?
A I don't know for how many days it was, you know. I can ask the company. I can ask them how many days they keep video and audio.
Q Do you still have that hard drive?

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A It's still in the company, in the same place. I no take it with me. I never take it with me.
Q When you say "it's in the same place," what do you mean?
A Same place, 60-20 Northern Boulevard, Woodside, New York.
Q It's still in the trailer?
A Still in the trailer.
Q That's the address for New York Motor Group?
A Correct.
Q New York Motor Group closed?
A It's not active in work.
Q So --
A But company still open, but not active for work, you know, for business.
Q When did it shut down for business?

A One second. The company is never shut down. The place where company is, is different dealership taken over. You got it?
Q No.
A Okay.

MR. SIMON: Landlord got a new tenant?
THE WITNESS: Yes. It's vacated.
Q It's vacated?
A Vacated.
Q Yes.
A But company is not closed.
Q So --
A It can be vacated, but, you know, but not closed.
Q When was New York Motor Group vacated?
A In -- I think in January '13 -- January '14.
Q Why was it vacated?
A From complaint, lot of complaint, lot of, you know, customer come in, bring police and also Consumer Affairs, you know, we slip the renewal. My daughter failed to renew the license for the Consumer Affairs. Then Consumer Affairs is closing the company and they take the license because we not renew it until I go over there and ask them to get the

license, they tell me "You have to start from

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the beginning."

Q Start a whole new application?

A Yes.

Q Why didn't you do that?

A Because I was -- anyhow, in this time, I was -- lot of people coming back, you know, for complaining and he did whatever he did, Mr. Estrada, I know Consumer Affairs wouldn't get another license until this is -- the complaint finish.

Q Did they tell you that?

A Yes, they always do like this. You cannot open for you again the license when you have something complaint in between.

Q Who told you that?

A Consumer Affairs.

Q Who? Do you remember? You spoke with someone personally who said that?

A Consumer Affairs by itself told me "You have already a complaint, we cannot give you another license until complaint finish."

Q Do you remember who you spoke with?

A Not really.

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Q Did you get that understanding from an actual conversation you had with someone?

A Yes, I went already by myself to Consumer Affairs.

Q Who did you speak with then?

A I think it's different unit, the legal.

Q Why did you go to Legal Consumer Affairs?

A Because it's in the complaint.

Q So you were dealing with the complaints?

A Yes, has to be finish first the complaint in order to get another license.

Q Were you dealing with complaints before the licensed expired?

A No, before and after also.

Q So you're dealing with complaints before the license expired?

A Yes.

Q Then you allowed the license to expire?

A Yes.

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Q You are saying it's only by mistake that you did not renew the license, it was entirely a mistake?

A Got to be. My daughter, she is -- I don't know -- somebody -- the letter for renewal is some -- you know, some -- someone put in office, somebody forget to hand to me, you know, that's the reason.

Q Other than that oversight, would you have renewed the license for New York Motor Group?

A Yes, definitely.

Q Even though you've shut down the operations of the business?

A No, shut down operation is not make sense. This is renew license. Once shut down operation, you shut down everything.

Q Well, let me -- maybe we can get same language down right.

When you said that New York Motor Group vacated the premises, right?

A Uh-hum.

Q You have to say "yes" or "no."

A Yes.

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Q What happened to the inventory of New York Motor Group when it vacated the business?

A This go back to Palisades Dealer Funding.

Q They took possession of the vehicles that they had a lien on?

A They belong to them. Cars belong to them, the owner, all the cars.

Q When was that?

A This is in December. Somehow in December. End of December, beginning of '14. Beginning, January '14 something like this.

Q Were those vehicles transferred to a different dealership?

A I have no idea. This is already under -- already dealership under Palisades Dealer Funding, this is a dealer. This is a company, floor plan company and wholesale company. I explain to you before they have all the cars, you know, either this go to any dealership but the company is belong to them -- the car belong to Palisades Dealer Funding.

Q Well, what assets did New York

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Motor Group have before?

A Zero. We don't have anything. We already have debt because, you know, paying people these cars, you know, come and complain.

Q Before New York Motor Group vacated the premises, what assets did it have?

A Zero. No assets.

Q Has it ever had any assets?

A No.

Q Never had any assets?

A We don't have assets.

Q So for any of the dealerships you were involved in, any New York -- Planet Motor Cars, Incorporated, Planet Auto Group, Incorporated, New York Motor Group, Incorporated, none of those had any assets ever?

A Month by month floor plan and also whatever expense, you understand, cover the expense, sometimes is a little bit profit, small, so that's it. We don't have asset that you think we own these cars, no. Owners of the car is floor plan company.

Q What about the property the

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dealership was on, was that rented?

A Rent.

Q What about the trailer it was in?

A Rent.

Q And you left the property in the trailer that you rented?

A Excuse me?

Q You left the property in the trailer you rented?

A These people already rent it.

Q Why didn't you take the hard drive with you?

A Excuse me?

Q Why didn't you take the hard drive with you?

A Because the other people they say "we need it." What I got to do with it? It's useless. Because I don't know anything in it or erase or something. I have to take hard drive, bring it to the company to see if anything in it or not.

Q So is there another dealership on that lot?

A Uh-hum.

Q You have to say "yes" or "no."

A Yes.

Q Which dealership?

A I don't know what their name.

Q Well, did you leave your computers there?

A No.

Q Why did you take your computers and not the hard drive?

A Because the hard drive is for recording. Have nothing to do with computer.

Q Did you leave the video and audio equipment at the dealership?

A Yes.

Q What else did you leave at the dealership?

A Nothing. Office belong to landlord before, that's it. Office chairs.

You never ask me about person who

made complaint, Tuhin.

Q Other than the complaints -- well, let's take it in two steps. Other than the three to six customer complaints about Estrada lying about reduction in interest rate, the one

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prosecution by the D.A. and the four to five contracts in the name of DLR, were there any other complaints during the time regarding the time period for when Mr. Estrada worked at New York Motor Group?

A Long complaint for same customer. After he left my business he try to contact customer, I told you, and tell people "Come pay me this, pay this, this, pay me this and I do for you deal." They believe him because he's finance guy, you know.

Q How do you know about that?

A Because people call me and they complain, they say "I give him this, this." I tell him "Excuse me, call the D.A., make complaint with D.A."

Q How many customers complained about that?

A About five, six customers.

Q And you said that one of the reasons New York Motor Group shut down, correct me if I'm wrong, was that you had to pay some of these customers who got ripped off by

Estrada, is that true?

A They come and also I see tremendous people coming, you understand? I cannot take it anymore. And my daughter, she was crying, every other day bringing the police over there. I say I cannot do anything. And Consumer Affairs take license. I not suppose to be function, also doing business, you know. Then everything is -- rent is $17,000. A lot of money. I lose a lot of money. Then forget it. I give dealer the key for landlord, tell him I'm out. It's losing only. Only losing.
MR. KESHAVARZ: Why don't we take a break for lunch.
(Lunch recess.)
Q You mentioned you spoke with the D.A. regarding Mr. Estrada, when was that?
A That was when was the complaint, a lot of complaint, you know, coming.
Q Do you remember who you spoke to?
A I don't remember.
Q It was before or after the sting operation?
A Repeat.
Q You said the issue where Mr.

Estrada went to the bank with a consumer for the consumer to get money to pay Mr. Estrada and Mr. Estrada was arrested, did you speak with the D.A. before or after that?

MR. SIMON: Note my objection to the characterization of that as a "sting."

A I don't remember exactly. I know he get contact with me.

Q What?

A He get contact with me.

Q You don't know if it was before or after that?

A I don't think so. Wait a minute -- I not remember.

Q How long? We were talking about renewals of your DCA license. How long is a license renewal good for?

A Usually license is good for two years.

Q Your license, DCA license for New York Motor Group was revoked in '14, correct?

A No, until sometime in '13, I think in July, August, something like this.

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Q Was your license by DCA ever revoked?

A Never.

Q The issue about cash payment going

back to Mr. Estrada for a second about the bank, didn't that happen before you started working at New York Motor Group?

A Rephrase this. Ask again.

Q I'd be glad to.

This issue about payment from the consumer at the bank where Mr. Estrada got arrested, do you remember that?

A In which company?

Q He was doing that at Auto Palace, right?

A Auto Palace.

Q Is that right?

A Yes.

Q So you knew about that before Mr. Estrada started working for New York Motor Group, right?

A Yes.

Q Then why did you hire him if you knew that he was arrested for doing what he

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did?

A Not only him arrest. D.A. arrested everybody inside the company, inside the Auto Palace, everybody, the owner, the manager, everybody was inside was arrested.

Q You knew about that when it happened, right?

A I read it already like everybody

read it. It's in article in Internet.
Q But you knew before you hired him, Mr. Estrada, that is, that he was arrested for taking the cash from the consumer himself, right?
A Not exactly. He tried to tell me, show me he is innocent and if he was this case, he would be in jail, you know, and they take him to jail right away. And he tell me also we can ask -- and I ask the D.A., he tell me, yeah, he make a deal with us, he not making any more, you understand, he get probation, but, you know, he tell me this, you know, late '13, the D.A., he is not convicted, you know. He not convicted for the fact what he did, you know, he blame innocence. He say he's

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innocent. "I would be in jail if I make any small thing, I would be in jail," because he have probation. And I say it cannot be in -- a guy with seven kids, you know, and they have responsibility for seven kids, and so does he can make another boo boo, does he put himself in jail? I would never, never think he going to do this. He's a good F&I, he's very good finance guy. He understands structure deals, you know, to the consumer everything, structure of the deals, but he is -- I never think he going to be lying to the customer. In the beginning he never lie.

Q Before you hired him, what was your understanding about what Mr. Estrada's role was at Auto Palace that led him to be arrested, what was your understanding at that point when you hired him?

A I understand whole company, which is Estrada and his boss, and so he was in big scam. Anybody come in to the dealership, you know, customer get scammed for something, you know, and that's what he explain to me. He tell me this is -- my boss is bad, you know.

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His boss is Danny Kohanano. I see him one time. I go to over there and I see his drinking alcohol from bottle like this (indicating). I say, "Oh, my God," how is this guy, you know, doing business in -- businesses all the time drunk or something, you know. He tell me also, he push me to rip customer, take all money and make money and he every day was fighting in place. Angel, the guy he used to working for him, he come in tell me all this stuff.

Q When did Angel tell you all that stuff?

A When he come in working for me.

Q Angel worked for you -- started working for you, how long before Estrada did?

A A year.
Q How much earlier than when Estrada was hired, did Angel start at New York Motor Group, a year?
A A year, yes.
Q So before you hired Estrada and when Estrada and when Angel was working at New York Motor Group?

A Correct.
Q Tell me what Angel told you about what bad things were being done at New York -- at Auto Palace.
A He was taking -- he was tell me about everything bad what happened in Auto Palace, customer fighting and employee fighting to each other, you know, so many things, you know.
Q Tell me about the fraud against consumers that are committed at Auto Palace prior to you hiring Mr. Estrada. Was Mr. Estrada working at Auto Palace at the time?
A Yes.
Q Tell me about the fraud that Angel told you was going on at Auto Palace for the time Mr. Estrada was working at Auto Palace and before you hired him, what did Angel tell you was going on?
A Angel tell me exactly what's in

the D.A., in the Internet, the charge. If you closer to computer here, I write it and I print for you all the charge from Mr. Estrada.

Q That includes taking down payments

from consumers?

A I don't know exactly, but I can read it to refresh my memory and probably also you guys make your homework and you print everything about Mr. Estrada and I don't need to explain it to you.

Q We'll get back to that document in a moment.

But sitting here today, do you remember if one of the things Angel told you about the fraud that was going on at Auto Palace while Estrada was working at Auto Palace and before you hired him, let's go through what you recall knowing at that point.

One of the things was that Auto Palace was taking consumers' down payments and not crediting the down payments, correct?

A I have no clue. Whatever happen in Auto Palace and happened in Auto Palace, not happen to my place.

Q No, I'm trying to figure out -- well, what else do you remember Angel telling you about the fraud at Auto Palace?

MR. SIMON: Objection to the form

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of the question.

Q Before Mr. Estrada started working at New York Motor Group but while he worked at Auto Palace, what else do you remember Angel telling you?

A I not really remember exactly what happened, but he did exactly -- this is -- he was lying to the customer, you know, and tell customer "sign here and after four months, five months come in, we making for you drop payments." This is what I understand.

Q That's what Angel told you about what was going on at Auto Palace while Estrada was working there?

A Yes, and he was, you know, different kind, also. I not remember. That's one of the major things I remember.

Q Did Angel tell you who at Auto Palace was doing that?

A Tell me what?

Q Who at Auto Palace was doing the fraud you just described?

A He was working over there.

Q Did he say who at Auto Palace was

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taking those steps?
A This is Julio Estrada.
Q So Angel told you it was Mr. Estrada that was doing that at Auto Palace?
A I read it also.
Q You read that and Angel told you that it was Estrada that was doing that at Auto Palace, correct?
A Did he tell me also?
Q He told you that Mr. -- you hired Estrada, right?
A Yes.
Q Why did you hire Estrada then?
A I watch him. He tell me "That not true," and I watching him and I see exactly. In the beginning he would never tell any of the customer any stuff like this, you know, because the amount of the deal what he did it, you know, he tell people -- this is when he feel he want to get out of my business, you know, when he feel he going to be getting out of business, he start doing bad stuff. Then he starting to tell people buying time, you know, tell customer, "Yeah, come in, in January, February,

you know, we going to be doing this for you." He know very good he not going to be staying until January.
Q Of what year? January, February,

'14?
A '14, correct.
Q When you were saying that you were listening, when Mr. Estrada started working there, you were listening to what he was telling customers because you didn't want Estrada to be ripping customers off at New York Auto?
A Correct.
Q When you were listening to him, you were listening to him through this video feed, is that how you were listening to him?
A No.
MR. SIMON: Note my objection to the form of the question.
Q How were you listening?
A I not have audio at this time. I was inside. I see him inside. He bring me -- sometimes I was not inside. He bring me the customer outside. He tell me, "Here's

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customer, are you, Mr. Customer, satisfied?" You know, practice, he is -- you understand, he make me feel comfortable, you understand, I can leave him alone, you got it?

You know, like when bad person tell you "I'm very good, I'm not lying to nobody," and he show you sweet, he show you that he not lying to me, this, this for couple months, you know, he's very straight to leave him alone when you feel comfortable, you understand, that's when he take over.

Q When you decided to turn on the audio in August of '13 --

MR. SIMON: Note my objection to the form of the question. What do you mean, "turn on the audio"?

Q If you don't understand my question, sir, please ask me to rephrase it.

A Yes.

Q When you turned on the audio, part of the video recording you were having of all of the rooms in the dealership as well as the lot, how did you do that, you just flipped a switch, how did that happen?

A No, it's only one room, which is where Julio Estrada sit down and close customer, that was only audio. One audio in this room, first of all. Second of all, when hard drive is stolen from me, you know, then I felt something wrong, then I order another hard drive and the company to put audio inside and he realize because in the monitor someone -- I have monitor in other room, you know, then he see the mic already showing in the monitor, then he find out, he know very good I record him. That, many time, he take customer outside to talk to them.

Q So what was entailed in being able to turn on the audio function in Mr. Estrada's office, what had to be done, did you turn on the switch on the software, install microphones, what did you have to do?

A No, it's on all the time.

Q The audio recording, I'm asking.

A All the time on.

Q But I am confused.

A When I replace -- again, when I replace the one stolen, is the front system

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coming with audio and video, you got it?

Q The prior system didn't have capacity to do audio, is that what you are saying?

A Don't have capacity, no.

Q So was it just the hard drive that got replaced or something else that got replaced?

A You know, whole system is one -- is a place just on cameras and hard drive to record all camera activation. When this hard drive is stolen, they don't steal all camera, they steal only hard drive. Then I put another hard drive, okay, you got it?

Q Yes.

A I hope so. That's what I did.

Q The new hard drive allowed you to record audio as well?
A I bought also microphone, yes.
Q You bought what?
A This camera with microphone.
Q You put the microphone in Mr. Estrada's office?
A Correct.

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MR. SIMON: Note my objection to the form of the question.
Q I got it. Thank you.
A You're welcome.
Q Now, Mr. Estrada testified, I believe, that you had the ability to -- you, sir, had the ability to watch Mr. Estrada on your phone.
A Yes.
Q You watched him on the video on your phone?
A Correct.
Q You have the ability to do that?
A Yes.
Q And you have an iPhone or what is it?
A Yes, smart phone, yeah, smart phone.
Q You have an app on your smart phone that allowed you to watch videos?

A Yes, the company I hired to make this, they connect me to Internet so I can see him or I can hear him from, you know, from anywhere.

Q So you could hear him on your phone?

A When he talking.

Q You can hear him in his office while he's talking?

A Correct.

Q You can hear him on your phone?

A Correct.

Q And you would listen to him on a regular basis?

A Correct.

Q Listen to him every day?

A Yes.

Q Because you want to make sure that he wasn't ripping anyone off, correct?

A Correct, but in meantime he find out. He knows very good I listening or I hear, you understand? If he wants to do something verbal, you know, he go outside tell customer, "Okay, let's talk outside because I don't feel, you know..."

Q So when you were listening to him and watching him on your phone, you're able to do that from when he first started working at

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New York Motor Group; is that right?
A No.
Q When is the first time you're able to do that?
A To hear it?
Q Yes.
A In August.
Q On your phone?
A Yes.
Q First time you're able to hear it on your phone was in August?
A Yes.
Q You didn't have the capacity before August '13 to hear Mr. Estrada?
A No.
MR. SIMON: Note my objection, asked and answered.
A I explained this twice. What's your name again, I'm sorry?
Q Ahmad Keshavarz.
A I explain this twice. Hard drive I used to have is stolen and I replace hard drive in August and I put audio.
Q How long after you put audio in

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did Mr. Estrada work for you, how much longer

after that? You put audio in, in your new hard drive, how long did Mr. Estrada work for you after that?

A When I bought audio? I bought it in August.

Q How long did Mr. Estrada work for you after you installed it?

A After this he left already in December 1st, I think. He was in August, September, October, November, December also. He left end of November '13.

Q So you put it in, in August of '13?

A Correct.

Q He left in November of '13?

A End of November. Beginning of December.

Q That's my mistake. I had the termination date wrong. Thank you. That's very helpful.

A Thank you.

Q So you would listen to him every day from August '13 to the end of November '13?

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A He say I listening to him every day? It's not every day he closing customer. Not every day he do deals, you know. I'm also in auction, you know. Sometimes I felt if anything, I call many times my daughter. I tell her, "Is anything -- any deal, anything?" Then she tell me "No, he is not here, he's here," you know.

Q And your daughter, Nada, would call anytime that a customer called you and speak with you anytime a customer came in to complain; is that right?

A No, there is anything wrong, any problem, you know, she called me only if problem. No problem, why would she call me?

Q That's what I'm asking.

A Everything go smooth.

Q I'm sorry?

A If anything -- if everything go smooth, you know, then she don't call me.

Q Anytime a customer came in with a problem, like they were concerned they weren't treated right, money was taken from them, they were lied to, anytime a customer came in to

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complain about something and Nada was there, Nada would call you right there and then and tell you about it, is that true?

A Sometimes, yes.

Q She would normally do that when customers came in to complain, right?

A Before calling me she verified first with Mr. Estrada, tell him customer complain about this, this. Then he say, "Okay, no problem, I take care of it."

Q Go ahead.

A It's no problem.

Q So you are saying that Nada would only call you if Mr. Estrada told him -- I guess I'm trying to figure out, a customer comes in complains, "I've been ripped off by Estrada," or what other complaint they'd make, would Nada call you and tell you that?

A She called Mr. Estrada first, ask him this customer come and complain. Then he say, "Okay, when I come in, I take care of it, let him wait for me." Then when he come in, he sit down with the customer, customer he not come back again.

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Q Well --

A I don't know what he tell him exactly, you understand, or he solve him problem, whatever, but most of the time the customer is not go back. Maybe he tell him "Come in one month, two months," whatever he tell him. I don't know what he tell him exactly.

Q You were here for your daughter's deposition, correct?

A Correct.

Q I could pull out a page, I'd be glad to do that in a moment if you'd like.

A Yes.
Q But isn't it true that your daughter testified that she would tell you first when customers came in, said they didn't get a refund of their down payment, then you told her to let Mr. Estrada handle it, is that not true?
A Yes, they come return money, that's no problem. But if customer come in complain about something else, you know, about finance part -- you know, not all time customer

come in about refund, you know, come in to complain about finance, you know. If customer come say, "Oh, I don't see this and this, I sign but I don't like the deal, I don't want to take it anymore" and something -- you know, something like this, but regard refund, she called me first.
Q "When people would complain that they did not get what they were promised and they wanted their money back, if it wasn't about a down payment, you would send them to Julio?"
"Answer: Yes."
"Question: And you would discuss with your father that people were making those kinds of complaints, that they wanted their money back, that they wanted their money back

because Julio didn't get what -- because they didn't get what Julio promised?"

"Answer: I would report to my father but he told me to let Julio handle it since he knows the finance and client and everything."

Is that correct?

A That's correct. When he is -- when customer come and ask him for refund without taking car, you know, we'll give him his money back.

Q When these complaints would happen where they would say, "Julio Estrada told me after three months, six months my interest rate would go down and come in and refinance," Nada didn't tell you about that?

A Yes, she tell me. She tell me customer he want to come to refinance. I tell her, "Okay, let him sign, let him see Mr. Julio Estrada, he promise this going to be refinance, refinance, you know, I have no clue about it."

Q So let me make sure I'm clear. Customers would come in and complain to Nada that Mr. Estrada said they can come back in, in three months, six months, refinance for a lower payment, your daughter would tell you that and you would say, "Okay, let them talk to Mr. Estrada about that," right?

A Correct, because I never tell customer come in four months and I refinance the car. He tell them. Not me.

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Q Other than telling your daughter to talk to Estrada about that, did you do anything else to follow up on those complaints?

A Yeah, I always ask him what he did with the customer.

Q You asked him what he did with the customer?

A No, I asked my daughter what he did with customer.

Q What would she tell you?

A She tell me customer left already because he not stay long.

Q Because what?

A Not stay enough with the loan. The bank, when they see customer making a payment in certain time, then consumer credit score go up, you know.

Q Yes.

A Instead customer he have 24 percent with his 400 score.

Q Yes.

A Of the customer paying on time and everything, his score go to 600 and he qualify to get bank like capital one, like this, like

♀

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another company, you understand, to lower his interest rate.

Q A bank other than the sub prime bank?

A Not subprime bank. Like prime, because his credit is go up, you know, then he is -- you know, then he qualified to have lower interest rate.

Q You think that's true after three months, six months of payments?

A Not three months. Not three months.

Q How many?

A At least minimum, you know, seven, eight months.

Q So Nada would tell you these consumers would come in, they'd have complaints, they were told by Mr. Estrada that the interest rate would drop after three months or six months and she would tell you and you would tell her to have the customer talk to Estrada, right?

A Exactly.

Q Then Nada would tell you the

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customer would leave and say "I couldn't get my interest rate to drop"?

A Because we check his credit. We see he do anything to his credit. Usually you have a credit line only if the car is -- your interest rate is got to be -- or your credit score not go up, you know, it go up only if you open two or three, you know, trademark, like you get on credit cards, you get this, you coming out from 400 score with you're not paying nobody, you have $10,000 debt in your account, you understand? Too, does he already have in bank straight credit, is actually taken 24 percent of the bank, you know, and they take advantage of people that don't have credit, dying to get cars, then they have to be stay with the loan until it go up a little bit, 600 score, you understand? Then they got to be refinance, you understand?

Q Nada was telling you they were told they can come back in after three months to do it?

A Not really, it's too soon.

Q To what?

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A Too soon.

Q Nada was telling you customers were telling you that?

A No, I don't think so.

MR. SIMON: Note my objection to

the form of the question.

Q Do you remember specifically how many months they were told to come back after?

A You see here on this paper it says.

MR. KESHAVARZ: Mark this as Exhibit 1.

(Thereupon, a December 4, 2012 D.A. fraud press release was marked as Exhibit 1, as of this date.)

Q Please review Exhibit 1.

A Okay, I review it with my lawyer.

MR. SIMON: Just note for the record my client is reading that alone. It appeared counsel didn't want me to confer with him while I was reading that.

A It says here after six months. I know very good he lying to customer. He say

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after six months coming over we make refinance.

Q You're reading off page two of the press release, right?

A Yes.

MR. SIMON: For the record, can we have a date of the press release?

MR. KESHAVARZ: Dated December 4, '12.

Q And you read this press release

shortly after it came out in December of '12; is that right?
A When he coming out?
Q This thing was online on December 4, '12. Are you saying you read it shortly after it came out, this press release?
A After this come out, yes.
Q So you read it sometime in December '12?
A Yes.
Q You knew that Mr. Estrada was the only finance manager at Auto Palace before you hired him, right?
A I don't know if he only the one. The place is big. I don't even go over there

sit down all the time or, you know, as practice. I'm competition for them. Also, if I go over there, then owner he tell me "What are you doing here," you understand? I'm not -- that's not my place. I don't know how many finance guy over there.
Q Did Angel tell you that there was a finance person at Auto Palace other than Mr. Estrada?
A Couple of them before them, before Estrada.
Q But not while Estrada was working there?

A I don't know.
Q I also read the section underneath what you highlighted that talks about that "There is a down payment in order to refinance."
A No, I don't know about this.
Q You've read it.
A I just read it, but I don't know anything about this. He did it.
Q You don't know that allegation happening at New York Motor Group?

A No.
Q You read the whole press release?
A Yes.
Q Okay, have you ever applied for credit in the last ten years?
A Credit?
Q A loan.
A Loan?
Q Yes.
A Loan, yes.
Q When is the last time you applied for credit?
A Credit from Chase.
Q What was that for?
A For second mortgage.
Q When did you apply at Chase for a second mortgage?

A When? That's long time ago.
Q More than ten years ago?
A Less.
Q More than five years ago?
A More than five years ago.
Q Between five and ten years ago?
A Yes.

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Q Did you ever apply for any credit in the last ten years other than the second mortgage at Chase?
A Maybe credit card.
Q Do you remember the last time you applied for a credit card?
A I think Delta -- U.S. Air, I'm sorry. It was my daughter, she was flying all the time from college and ASU.
Q Did you get a credit card?
A I don't think so, no.
Q Got denied?
A Not get denied. I not remember response for something, but I not get card, though.
Q Any other application for credits in the last ten years?
MR. SIMON: Note my objection. Why do you want to -- you mean him personally?
MR. KESHAVARZ: I'll take it one

at a time.
Q You personally.
A No.

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Q Any of the car dealers? Take them one at a time. Planet Motor Cars, Inc. apply for credit in the last ten years, to your knowledge?
MR. SIMON: Note my objection to the form of the question.
A I don't know.
Q Did Planet Auto Group, Incorporated apply for credit in the last ten years, to your knowledge?
MR. SIMON: I believe it's asked and answered. You asked the question about all dealerships every time they acquired a car, the car went on a floor plan, so they're getting credit, they owe money to the floor plan company every time they got credit, every time they acquired a car.
I don't understand. This question was asked and answered already, every time they acquired a car, they got credit from the floor plan lender.
Q Did Planet Auto Group, Incorporated apply for credit in the last ten

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years, to your knowledge?
A I deny to answer.
Q Why?
A Because it's not question also for -- belong to this case. I apply already for credit card.
Q I'm not asking you about your personal application. We talked about those already.
A Credit cards for company.
Q The company had a credit card?
A Yes.
Q Planet Auto Group, Incorporated had a credit card?
A Correct.
Q And when was that credit, in the last ten years they had a credit card?
A Planet Auto Group they always have -- Planet Auto Group or Planet Motor Cars?
Q Let's take them one at a time. I started with Planet Motor Cars, Incorporated, did they apply for credit or obtain credit in the last ten years?
A Yeah, attach to that account, you

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know, it's a loan, you know. You know, when overdraft, yeah, something like this.

Q This is at a bank?
A Uh-hum.
Q Which bank?
A HSBC.
Q So did Planet -- let's take them one at a time. Planet Motor Cars, Incorporated, had a bank account at HSBC?
A Planet Motor Cars?
Q Yes.
A I believe so, yes.
Q Did they have any accounts anywhere else?
A Excuse me?
Q Did they have any bank accounts anywhere else?
A I not remember.
Q Did they have -- do their dealer reserve accounts go through HSBC?
A No dealer reserve account.
Q Never?
A Never.
Q What about Planet Auto Group,

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Incorporated, where did they bank or do they bank at HSBC or where?
A No, in Chase.
Q Anywhere else?
A HSBC, also.
Q Anywhere else?

A No.
Q Do you know if they applied for credit through Chase or HSBC?
A What?
Q Do you know if Planet Auto Group, Incorporated, applied for credit through Chase?
A No.
Q No, they never had or you don't know?
A Never.
Q New York Motor Group, Incorporated -- New York Motor Group LLC, where did they have accounts, where did they have bank accounts?
A Chase.
Q Anywhere else?
A I think TD.
Q New York Motor Group have a

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reserve account?
A No.
Q Did they apply for credit?
A Applied for credit, yes.
Q With whom?
A Overdrafts. Chase.
Q Overdraft protection?
A Yes.
Q Do they have a line of credit?
A Yeah, overdrafts protection for

like 35,000.
Q Just a line of credit with all of them?
A Yes. It's called "overdraft protection."
Q What about Hillside Motor Group, where did they have accounts?
A This is not my company.
Q You don't know?
A I don't know.
Q You don't know if they ever applied for credit in the last ten years?
A I don't know nothing about the company.

♀

Q What about Hunts Point Auto Sales, do you know where they bank?
A Not my company.
Q You don't know?
A No.
Q You don't know if they applied for credit in the last ten years?
A No.
Q Have you submitted a claim for this lawsuit to an insurance company for coverage?
A I did.
Q Which insurance company?
A Zurich.

Q And for which of the plaintiffs, which of the people that sued you did you forward the claim to Zurich?

A I submit for all the frauds and for all the lawsuits, big lawsuits. This is what you do.

Q For all of the lawsuits here?

A For all of the lawsuits.

Q How long after you found out about the lawsuit did you forward it to Zurich, a

♀

claim?

A I call them. They tell me "No, you are not qualified for this." I don't know why.

Q So they sent you something in writing?

A No, I still give it to my lawyer. "You got to find out exactly if I'm covered or not," because I got to give him article for the -- you know, for the insurance.

Q You have to give your attorney the article for the insurance?

A Yeah, it's called "article," right?

Q Insurance policy?

A Article for insurance policy.

Q Declaration page?

A Declaration, sorry.

Q That's fine.
You gave which attorney?
A I give it to Bruce Minsky. I will give him because he contacted the company.
Q The declaration page for your insurance?

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A Yes.
Q It was only with Zurich?
A Zurich, yes.
Q Did you have more than one insurance policy?
A No, I'm sorry. This is another company. I don't know what's name exactly, but big company. It's a base in Albany.
Q Insurance company?
A Yes.
Q And what about that company?
A Because the company is supposed to be covering me for fraud, for lawsuits and also employee stealing money or something from company, you know, also when company get loss, you know, losing, something, you know, and it was also fraud, gainful coverage.
Q Full coverage for what?
A For cars.
Q In what way?
A If car get stolen, example, from the business or in an accident for the

consumer, also if customer make an accident with the dealer plate is covered also, you

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know.

Q So this is a policy other than with Zurich you mean?

A This is a -- company is not Zurich. This is a company. I don't know exactly the name, but I can provide with you the name. If you give me your e-mail, I e-mail you name of the company.

Q Well, you can get a copy of the transcript when you review it, just write in the name of the company?

A Okay.

MR. KESHAVARZ: We'll leave a blank in the transcript for you to fill in the name.

INSERT: ___________________________________

MR. KESHAVARZ: Also, call for document production of any of the insurance policies and any of the notices of claim and responses to notices of claim, including denial letters.

Q So the insurance company that is not Zurich, how many insurance companies are

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there?

A No, I confusing about Zurich. This is another company. It's a big company. It's already -- it's based in Albany. I remember very good. But there was -- you know, I show it to somebody. He tell me -- another insurance guy, he tell me very strong policy.

Q Did you submit the claim for that?

A You know, I call him one time and they refuse to do because a customer, he pay $5,000, he take car and run away, you know, I cannot get a hold of the customer and it look like I lost the money and the car, I cannot. And I try to claim this, they deny, you know. I guess, I got to give -- you know, I ask Bruce to review the policy and tell me exactly what's going on.

Q But did you submit the claims in this lawsuit to that insurance company?

A Not really.

Q Not really?

A Not really. I know very good I'm covered for this, you know.

Q You what?

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A I know very good I put in coverage, you know, in my policy but today you got to fight with insurance company to pay any claim. You know this. So I got to go to somebody is like insurance lawyer. He explain me my rights. Then if not cover me, I got to sue them if I have a right for this coverage.

Q Did you provide notice to this insurance company about these lawsuits that we're here about today?

A Yes, I called them. I called them, just only a call. They not give me a straight answer, you know. I think from -- if a lawyer talk to them, then they got to be -- they give specific answer.

Q When did you call this insurance company?

A Long time ago.

Q How long ago?

A When they start the lawsuits.

Q All of the lawsuits or only some of the lawsuits?

A Some of them.

Q Before the Tuhin case? Tuhin was

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the last one. Did you let them know about Tuhin?

A Yes, I did already about Tuhin, you know, and also the other guy his name Vasco (phonetic).

Q I'm showing you the cover of the

deposition transcript. Is that name listed here?

A Simon Gabrys.

Q What about Simon Gabrys?

A Not when he start lawsuit. I call right away my insurance company and I tell them this is -- and lot of -- you know, lot of legal fee, to put me out of business also from anyplace, you know, lot of money for legal fee.

Q What did they tell you?

A They tell me -- they don't give me straight answer, but I talk with Bruce Minsky. He tell me "Okay, give me policy and I discuss with them."

Q Then what happened?

A Then what happened, starting every day deposition and this, this, we don't have, you know...

♀

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Q How many times did you call your insurance company about the claims in these lawsuits, all of them, how many times did you call them?

A One time.

Q And only after you found out about the Gabrys case?

A Yes.

Q You didn't call after you found out about any other of the cases?

A Tuhin, also.
Q After Tuhin?
A Yes.
Q The other people who are the plaintiffs, are Dong and Chowdhury. Did you call the insurance company for those?
A No.
Q It was after Tuhin you called the insurance company about both Gabrys and Tuhin?
A I not remember. I just only ask him general question to legal for the insurance. They tell me "Okay, you have to explain exactly and write for us what happened and everything."

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Q Was that done?
A No, I give it to Bruce Minsky and I tell him "Listen, you got to contact insurance company." He tell me "Okay," you know. I think he is very busy lawyer, you know. He put it to side. I don't know what he did exactly. I have no clue, you know. I don't know what he did exactly. But the article, you know, from the policy is there.
Q There, where?
A I have it.
Q You have it personally?
A Yes, I have it.
Q It's in your possession?

A Yes.
Q Where? Your house?
A No, in my document. Where I have my document.
Q Where do you have your document?
A In my briefcase.
Q Where's your briefcase?
A In the car.
Q In your care here?
A No, I come in today with the train

because traffic.
Q You have it in your briefcase, a copy of the insurance policy of this company that we're talking about?
A Not copy, the original. The original policy.
Q Original policy?
A Yes.
Q And the declaration sheet?
A Yes.
Q That's for the insurance company we're talking about now?
A Yes.
Q And you provided a copy of that policy to who?
A To Bruce Minsky.
Q When?
A Couple months ago when starting

going on, you know, legal fee, paying legal fee, you know.

Q Who is paying your legal fees now?

A Who paying legal fee for me now? Me.

Q You're paying it out of pocket?

A Yes.

Q You've paid that out of pocket for all the three lawyers that have been representing you in this case?

A Yes.

Q I would imagine that's a lot of money?

A Excuse me.

Q I would imagine that's a lot of money, attorney's fees?

A Yes, I know very good lot of money.

Q Why haven't you followed up with the insurance company to see about them covering the claim?

A I telling you again, I don't know what I talk with who exactly in the insurance company, you know, and probably they transfer me to legal. Until they transfer me to legal, I have to have my lawyer to ask and talk to them. Because if I talking to them as an individual they tell me anything, I would not understand it, you know. I forward to Mr. Bruce Minsky to deal with them.

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Q Have you let any of the other lawyers representing you know about this insurance policy?

A No, only Bruce Minsky.

Q Why only Mr. Bruce Minsky?

MR. SIMON: Note my objection. Don't answer. I'm not going to let him answer.

MR. KESHAVARZ: I asked him why. I didn't ask him for communications.

MR. SIMON: Why Minsky as opposed to Weinberg?

MR. KESHAVARZ: What's the objection?

MR. LANE: Not asking him to divulge anything about conversations with an attorney.

MR. KESHAVARZ: It's why he did something.

MR. SIMON: Why he has one lawyer dealing with rather than another? It's none of your business.

MR. KESHAVARZ: That wasn't the question. "None of your business" is

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not --

MR. SIMON: I object to relevancy. Read it back.

(Record read.)

MR. SIMON: You really want to know that? It matters to you?

Q You may answer.

A He's first lawyer for me.

Q Why not subsequent attorneys? What happened to the lawyers after?

MR. SIMON: I'll concede Mr. Minsky is the best lawyer.

Q Go ahead.

A He was the first lawyer I give him this, my stuff and then he tell me "I cannot handle it, you got to hire somebody else also," but he's one of the first, first.

Q But did you let Mr. Simon know there was an insurance policy?

A No, he doesn't know.

Q Why didn't you let Mr. Simon know?

A Because he represented Minsky, you know, in couple case, right?

Q He represented Minsky?

♀

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A Yes.

Q Mr. Simon represented Mr. Minsky?

A In some case. And Tuhin, only he

represent me, but other case he don't, you know.

MR. SIMON: He's saying in this case I appeared of counsel for Minsky's office at other depositions. Ask all these questions, but I just want to move on.

MR. KESHAVARZ: Million dollar question, I want a copy of this insurance policy and declaration page, Mr. Simon, will you have that provided?

MR. SIMON: This is an interesting side issue of coverage, but the bottom line is in terms of an insurance policy, generally they're not going to provide any coverage to the extent that there was intentional wrongdoing.

MR. KESHAVARZ: That's fine, but there's a policy, particularly a policy that a claim was made against that has to be disclosed.

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Q Can you get a copy to your attorney?

A Yes.

MR. SIMON: I'll provide it.

MR. KESHAVARZ: Can you provide it next week?

THE WITNESS: Yes.

MR. KESHAVARZ: Can you provide it to us next week, Mr. Simon?

MR. SIMON: I'm assuming he's referring to the insurance policy which covers the period under which the alleged wrongdoing because I have no idea if it's a claims made policy or an occurrence policy. There's so many other issues involved in insurance coverage, but whatever policy he has, he gives me, I'll forward to you.

MR. KESHAVARZ: Okay.

Q You only have two insurance companies, Zurich and this other one?

A No, one insurance company.

Q Oh, it's not Zurich?

A No, not Zurich.

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Q You're unclear on the name?

A I don't know name exactly. I assume it was Zurich.

Q The insurance policy lapsed or you're current with payments?

A I'm current.

Q You never lapsed?

A Never lapsed.

MR. SIMON: Note my objection to the form of the question. I assume the insurance policy was issued not to this individual, but to one of the dealerships, correct?

THE WITNESS: Correct.

Q Which dealership?

A New York Motor Group.

Q Any other ones?

A No.

Q So policy with New York Motor Group that has never lapsed?

A Never lapsed.

Q Is there an insurance policy that will cover claims against or do you believe may cover claims against?

♀

A Consumer plan.

Q Insurance coverage that covers claims for Planet Motors?

MR. SIMON: Whatever insurance policies are applicable to any of the following; any of the planet dealerships, the New York Motor Group Dealership or Hillside Motor, I'll provide to you.

MR. KESHAVARZ: When?

MR. SIMON: As soon as I get it from my client, which should be next week.

Q Sometime within the next week can you get a copy?

A Yes, it's only one.
MR. SIMON: He'd have to forward to me. We're not parked in the same lot. We came from different stations.
Q Fax it to your attorney?
A Yes.
MR. SIMON: I will get it to him.
Q You have your personal issues, I don't want to get into. I don't want to

inconvenience you. I'm asking if you have the originals, can you take it to your attorney tomorrow?
A Yes, definitely.
Q That's all I was asking.
MR. SIMON: Also, I'll let you know, I'll inquire of Bruce Minsky and Lloyd Weinstein what, if any, communications they had with any insurance carrier on this.
MR. KESHAVARZ: Okay, thank you.
Q Now, do you have an insurance policy with Planet Motor Cars?
A Planet Motor Cars.
Q Any insurance policy with them?
MR. SIMON: My representation was for all dealerships, any insurance policy applicable to any of them I'll forward on to you.

Q Do you know if Planet Motor Cars had an insurance policy?

A Yes, they have at least -- I don't know what insurance policy about, you know.

Q Do you know if their insurance

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policy has lapsed?

A I don't think so.

Q Do you know who has a copy of the insurance policy with Planet Motor Cars?

A I don't know. I tried to find this. It's going to be hard.

Q What do you mean "it's going to be hard"?

A Because company is there -- I got to be looking whose insurance is in this time.

Q Who acquired insurance for Planet Motor Cars?

A This is the secretary.

Q Which is who?

A I think his name Julie King.

Q Planet Motor Cars, Incorporated, they're still running?

A Still open, yes.

Q Not just on paper, but is the car dealership actually running?

A No car dealership, no.

Q When did there seize to be a car dealership for Planet Motor Cars, Inc.?

A Yes. When they vacate?

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Q Yes,

A I think -- I think June, July, '13, something like this.

Q Why did they vacate?

A Why? I don't know. They have a big lawsuit with big company called Reynold's & Reynold's. This is software business.

Q They were sued by Reynolds & Reynolds?

A Software business.

Q Planet Motor Cars, Incorporated was sued by Reynolds & Reynolds, correct?

A Correct.

Q And because they were sued by Reynolds & Reynolds, they vacated, right?

A Yeah, they cannot afford this. Legal fee big money.

Q Say that again?

A Big one for legal fee.

Q Yes. So they vacated the business?

A Exactly.

Q Where did the assets from Planet Motor Cars, Incorporated go?

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A I don't know. I not the owner.
Q Well, you're the --
A Manager. I was not owner.
Q What happened to the vehicles on the lot for Planet Motor Cars, Incorporated when they vacated the business in June or July '13?
A I told you again and again, all vehicles under company is called Palisades Dealer Funding. It's floor plan company.
Q Do you know if it went back to Palisades or do you know if it went to another dealership?
A This is probably back to Palisades, yes.
Q Do you know one way or the other? You said "probably."
A I don't know when.
Q Do you know if it went back to Palisades or do you know if it went to another dealership?
A I know it's back to Palisades.
Q You know the cars on the lot at Planet Motor Cars, Incorporated went back to

♀

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Palisades, correct?
A This is all my knowledge.
Q Where do you have that knowledge?

How did you do that?
A Excuse me?
Q How do you know that?
A How I know this?
Q How do you know all the cars on the lot at Planet Motor Cars, Incorporated, how do you know those went back to Palisades as opposed to going forward to another dealership?
A Yeah, because lot was empty.
Q How do you know the cars didn't go to different dealerships?
A I know very good this is in wholesaler. He was putting cars over there. He do floor plan by himself. They come take all his cars.
MR. KESHAVARZ: Off the record.
(Discussion is held off the record.)
MR. KESHAVARZ: If anyone's curious, the camera apparently was not on after we got back from lunch. It

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just got turned back on.
MR. SIMON: That's fine.
Q How much have you paid your attorneys so far?
A You don't want to know.
Q I do.
MR. SIMON: You're concerned we're

seeking counsel fees?

MR. KESHAVARZ: You have. Someone demanded for fees.

Q How much have you paid for your attorneys?

A I don't remember how much. I get back to you.

Q Do you owe any of the attorneys money?

A Yes, big money.

Q Weinstein?

A Weinstein, I think he sue me.

Q He sued you?

A Uh-hum.

Q Seriously?

A I think so. I don't know. Because I still not pay.

♀

Q How much do you owe him about?

MR. SIMON: You mean allegedly owe him.

Q Allegedly owe him, any idea?

A Maybe 6, 7, something like this.

Q Do you remember roughly how much you paid him or do you remember?

A Huh?

Q Do you remember, roughly, how much you paid him, Mr. Weinstein?

A I don't know. He not tell me. I

got to put all the checks I send to him.

MR. SIMON: He said 6 or 7, that's thousands, not hundreds.

Q Mr. Minsky, how much have you paid him so far?

A I don't know because he handle also other cases. Some people take from my account money and I don't know, you know. Different company steal company, you know this.

Q One company steals from another company in the car dealership?

A Yes, in account I see, but stealing they try first was $2. Then $100.

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Then $2,000. And then the name insurance company you can never -- Progressive, example. And I say -- my daughter, she taking this Progressive, my insurance and they taken so much money, taken about $40,000 something and then I return from bank like 26,000, and they steal money. We sue them and company from Ohio.

Q "We" what? Who brought the lawsuit, you personally or the dealership?

A No, dealership.

Q Which one, do you remember?

A New York Motor Group.

Q Is that still pending?

A Yes.

Q Where is it filed in state court?
A I think sue in Ohio.
Q In Ohio?
A Yeah.
Q How much have you paid Mr. Simon so far?
A Mr. Simon? I don't remember. He donate me because he like me very much. He tell me "I help you." He see me, I'm victim.

♀

He tell me "I help you in this case."
MR. SIMON: Off the record.
(Discussion is held off the record.)
Q Did Mr. Simon tell you you're going to have to pay a fee so far that you owe him?
MR. KESHAVARZ: I'll leave a blank line here in your transcript. You can just fill in how much you paid each attorney so far and how much you owe each attorney so far.
THE WITNESS: Yes.
INSERT: ___________________________________
Q Does Tower Insurance sound familiar?
A Believe me, I will overnight it or e-mail it to my lawyer and he make it to you.
Q You have it scanned already?

A It's something like thick, like this (indicating).

Q You have a scanner at home you can scan?

A I have to scan it and e-mail it.

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MR. SIMON: Off the record.

(Discussion is held off the record.)

Q Do you remember our client, Mr. Tuhin?

A Yes.

Q What's the first thing you remember about Mr. Tuhin?

A I never meet him until he take the car already and he registered car under his name and everything. And he is -- I ask -- also he come in after this. He say "I cannot afford it." I tell him "Why you take it from the beginning?" I ask "What happened with this customer?" He say "It's two days he come in and he bring a friend of his." And we have a salesman speak same language, Bengali. He explain him, also translate to him, you know, everything. And he still sign every line. He agree in all the terms.

Then when he come in to asking me -- you know, he not even come in to ask me. He brought this in front of the place. I never -- you know, I would never -- I was never

there the first time. Second time he come in, then I came and I speak with him. I tell him "What's the problem?" Then he dragging me to 7-11 across the street. I try to tell him come into the office. He take me to the 7-11. He have bunch of Bengali friends with him from Bangladesh, you know, all of them. And then he tell me "Listen, I don't want the car." I say "But this not way dealing. You say you don't want car, maybe I help you. I take car, I sell it, you understand, and, you know, I refund, I pay loan off from M&T Bank, we going to be over, it's not first car and last car."

Q You offered to do that?

A Yes, definitely 110 percent.

Q You didn't offer he'd have to pay something? You said you'd take it back, you'd sell it, you'd get him off the note?

A I tell him bring me car, I put in lot, I put it for sale and I sell it because I'm out of the money, you know, because I pay the floor plan company. I don't have money. I refund him money or I pay loan completely, you know. It's some process. Either I have to pay the loan, let insurance company -- which is floor plan company -- pay the loan and the lien on car and put the car again on lot.

In meantime, he don't have title to provide me, you know, the title for the car. I tell him "Okay, Mr. Tuhin, if you cannot afford the payment, you know, why you take the car from the beginning?" Then he say "I don't know, I feel like I make mistake or something," but, you know, I tell him any dealership will not take it. This is used car business. It's not new car or something. It's used car business. I already paid for car and I register car under your name. Not after one month, then you change your mind, you know.

Then what happened is he tell me "Okay, okay, thank you." Then he bring in car to the place and he take plates out and leave car inside my lot. I tell him "Okay, you cannot leave car inside lot without giving me the title, I can send it and pay off car or something." He have in his mind "No, no, I want to get out."

Even I call the bank. I call Mr.

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Jim Erickson, he's the rep for bank. I explain him situation. I tell him I have customer, he cannot afford it and so is this going to be volunteer repossessed, take car, bank got to sell car.

Then I get on other side when I'm in the middle of this and very, very nasty paralegal lady, she call me. She tell me -- she cursing me. She tell me "You have to take the car, no repossession, you have to take car back." So she speak with me very, very, you know, rough. I tell her "You know what, I cannot answer you like this." I give the phone number to my lawyer who was Bruce Minsky.

In meantime, I cannot have the car in my lot without title and I not own the car. Anything happen with the car is my responsibility, you know. I take car, I send to my driver. He bring car back to his house. He live like couple blocks away from us. He not living far away. And we left the car over there, you understand, and probably he take car.

Then it started the lawsuit

♀

without -- I try to help him. He come in like a lion. I try with all my conscious, I tried to help him. I tell "Okay, you cannot afford it, let me help you." Instead you bring suit against me.

Q Do you remember having any other communications regarding Mr. Tuhin other than what you've testified to?

A Yeah, he come in one time also, again, I think repossess. We call police. It's no good in front of place. Police came and he tell him -- he invite him inside. He tell me "Give me your driver's license." The police take his driver license. "Well, give him contract." He put driver's license next to contract. "Mr. Tuhin, you sign this?" "Yes." "You sign this?" "Yes." "You sign this?" "You admit you sign everything?" He tell him, yes. He tell him "You cannot go to protest, you have to go to court, but if you go protest, we going to be after you." That's from this time he left.

Q You heard the police officers say that?

A Yes, in front of my daughter and me, you know. I tell him I tried to help him, you know, he go to different way, very nasty, I don't know, and I try really, really to help him. I'm not against him. I try to help him. If you not can afford it really. You see the payment, you see everything. And he bring in two of his friends to watch everything before he sign.

Q How do you know that?

A Because my salesman, which is Bengali, he tell me same thing. And also Julio

Estrada tell me same thing. He bring in two people twice. He come, go, and come back. He can say -- if you don't want the car, you see his payment is high, you can say, "You know what, I don't want car." Definitely he got to get his money back because he not take the car but he taken the car. He registered it under his name. He spend time with the car for 30 days or something, you know.

Q Who is the Bengali salesman?

A This is Duane.

Q What's Duane's last name?

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A Say again?

MR. SIMON: I think the first name is Dewan.

A I don't remember. One second.

MR. SIMON: I have it. Dewan Arefin. I'm saying I have it. You texted me and spelled the name.

A Believe me, I know going to cost me lawsuit more than car. I try to deal with him, but it's very hard to dealing with the guy, very, very hard to dealing with him, you know.

Q Why was it hard to deal with him?

A Because I explain to him everything. He want to give me car without title.

Q Why would he have the title? Wouldn't the finance company have the title?

A No, he had the title with the lien but he probably not receive it or I don't know where he put title. He want to give me the car, that's it.

Q What do you mean, "that's it"?

A He want to give me car without

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title, without anything. He tell me "This your car."

Q If M&T Bank gave you the title with the lien on it, what would you have done?

A M&T in New York City here when lien and title, they give customer the title.

Q The original title?

A Yes, with lien holder.

Q Again, Dewan Arefin, you have a phone number for him?

A Yes. I think 718 902-2216.

Q Do you know the address for him?

A I know very good he lives in Jackson Heights somewhere. I don't know exactly. I can try and get it.

MR. KESHAVARZ: I'll ask the reporter to leave a blank line herein. You can fill in the address, please; will you do that?

THE WITNESS: Yes.

INSERT: ___________________________________

Q When's the last time you spoke with Dewan Arefin?

A I think is February or March.

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Q Of '15?

A '14.

Q You talked to him about the lawsuit?

A No, I was asking him for couple of questions, yeah, of, you know, Tuhin, if he can call him or settle this or finish this problem.

Q What did he say?

A He tell me "I trying." He never get back to me.

Q That Dewan said he'd try to contact Tuhin but Tuhin never got back to him?

A Could be. Could be. I don't know.

Q You are not sure?

A I'm not sure.

Q Who was the sales manager for Mr. Tuhin's deal?

A Dewan.

Q Was Dewan the salesperson and Mohammed a sales manager or do you know?

A Yeah, this time Mohammed was sales manager.

Q What's Mohammed's last name?

MR. SIMON: That was in the discovery response, too. I have it. I have it as Mohammed Rasmy.

Q What's Mr. Rasmy's phone number?

A I think guy he is not here. I think he's in Egypt. He's working in Egyptian movie. All time he have work, he go over there and then come back.

Q Is he an actor?

A Actor, yes, but actor very small, you know, like he come in as body guard, something like this.

Q I see.

A Actor without talk.

Q Let me know if you can find his number.

A I don't think I have his number.

Q Do you have an e-mail address for him?

A No.

Q Do you have an e-mail address for Dewan?

A No.

Q Was Mohammed Rasmy his actual

name?

A Yes.

Q Mr. Estrada says it's very common for employees at dealerships to use aliases. Do you know if that's true?

A Alias?

Q A name that's not theirs.

A No, that's not true.

Q Did you ask Mr. Estrada about what happened with the deal with Mr. Tuhin?

A That's what he tell me exactly. He tell me the guy, I have everything in front of him and every item he's in front of it and sign it, you know. If you have contract here, the sale, did you see?

Q So you are saying that he had signatures on all of the lines, Mr. Tuhin says he did not sign that?

A No, he never say this. He say in front of the police this is his signature.

Q What else do you remember?

A Agree everything, all terms.

Q Did he say Mr. Estrada told him something that was not true?

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A No. When he come in the front of the police, he admit he sign every term. And so just only his complaint, he can't afford the car. And he say he want to buy car for 12,500.

He wants to buy it. He wants to buy, you know, he wants to buy this for this, but he end buying it for this much.

Q Do you know why the price changed?

A You know, he buy additional, you know, it's called after market after sale. He buy after sale stuff.

Q What stuff?

A You know, after sale, you know, protection plan, all this. Also, credit card he telling me they put on me $11 every month. Then I call them. "What is this?" They tell me protection plan. I tell them I not agree with this, you know.

Q One of the things on this was an extended warranty program he was never provided, right?

A It's provided.

Q How do you know that?

A Because I pay already for extended

warranty. You not get extended warranty for free. This we pay for it.

Q Do you have any document that shows that?

A Yes, in file.

Q Is this the file?

MR. SIMON: That's my file. It's in the file. We provided it.

Q What do you mean by "the file"?

MR. SIMON: We provided.

Q What do you mean by "the file"?

A Tuhin, he already have extended warranty on everything.

Q You have a file on Mr. Tuhin?

A Yeah, he have also same document I give it to him.

Q Where is the file for Mr. Tuhin?

A Okay, we have it. My lawyer have it.

Q Is that the file for Mr. Tuhin? Your file for Mr. Tuhin, who did you give it to?

A I give to Weinstein first and then transfer from Weinstein to Mr. Simon.

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MR. SIMON: Are you referencing the extended vehicle service agreement, which is the auto protective vehicle service agreement marked as Exhibit L at Tuhin's deposition?

MR. KESHAVARZ: Let me take it one step at a time.

Q The deal file, it's called a "deal file," right?

A Deal jacket.

Q Did you give the entire deal jacket to Mr. Weinstein?

A You have copy in your hand, everything.

Q We'll go through this in a second.

You gave the entire deal jacket to Mr. Weinstein?

A Yes, he's my lawyer.

Q Were there any pages missing in the deal jacket when you gave it to Mr. Weinstein?

A No.

Q Everything was in there?

A Yes.

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Q And if you can look at the originals that your attorney has with you, can you go through the originals real quick and see if everything's in there?

A You have to ask my attorney.

MR. KESHAVARZ: Can we get the deal file?

MR. SIMON: Why don't you show him all the copies because you have everything.

MR. KESHAVARZ: I want to make sure you have the originals there. If I may see them, please? You have the originals in the folder.

MR. SIMON: Which document do you want to see?

Q Take a look at the whole folder,
that being everything that's in the original.
A This is already extended warranty.
Q Why don't you go through the file,
sir, tell me if everything for Mr. Tuhin's deal
jacket is in that folder?
A You have here extended warranty.
Q If you could go through the rest

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of the document, please.
MR. SIMON: No, I'm not going to
permit my client to start going through
this.
MR. KESHAVARZ: They are original
documents.
MR. SIMON: Any document you want,
just let us know what it is.
MR. KESHAVARZ: Let me see the
deal file, please.
MR. SIMON: No, I provided you
copies of everything.
MR. KESHAVARZ: No, you haven't.
MR. SIMON: What documents are you
looking for?
MR. KESHAVARZ: You have the deal
file right there. You brought it here.
You marked them as exhibits at some of
the depositions. You never provided us
Bates-stamped copies. You have it right

here.

MR. SIMON: I can tell you what I did. I think it was during the deposition of Nada, I gave you guys the

deal jacket. You went through my whole deal jacket at leisure for an hour and you made additional copies.

MR. KESHAVARZ: That's right there.

MR. SIMON: I gave it to you.

MR. KESHAVARZ: Let me see it, please.

MS. LINDERMAYER: We asked you to provide us it properly as Bates-stamped as is required by the rules. You haven't done that, which means you have not complied with discovery.

MR. SIMON: I'm trying to.

MS. LINDERMAYER: Whatever you think you produced to us, you need to formally produce it to us in Bates-stamped, Richard. That's evidence, that's not your personal file folder.

MR. SIMON: You had the whole day during Nada's deposition.

MS. LINDERMAYER: Are you refusing to give us these documents again?

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MR. SIMON: I don't want to go over my client's deal jacket.

MS. LINDERMAYER: You have not formally produced anything.

MR. KESHAVARZ: You are saying you have original documents from my client's case, right, this deal file?

MR. SIMON: And it's been provided.

MR. KESHAVARZ: You have the originals sitting next to you now?

MR. SIMON: Yes.

MR. KESHAVARZ: May I see the original documents, please?

MR. SIMON: Here is Exhibit C, retail installment contract.

MR. KESHAVARZ: So the record is clear, these are documents that were marked as exhibits in Mr. Tuhin's deposition, right, Mr. Simon?

MR. SIMON: Yes. This would be Exhibit N at Tuhin's deposition. We've given you all of them, but some weren't marked because I showed Tuhin the

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ones --

THE WITNESS: This is the floor plan.

MR. SIMON: This is the floor plan contract that was -- what was sent to the bank, the MV50 again. Here's his driver's license. This was Exhibit M at his deposition, the gap waiver. This is just the MV82.

MR. LANE: Reason why you are not giving us the folder?

MR. SIMON: I gave you the whole deal jacket.

MS. LINDERMAYER: You randomly handed us documents without any Bates-stamped numbers at different times.

MR. SIMON: I gave you the whole deal jacket.

MS. LINDERMAYER: Until we have Bates-stamped numbers we can't verify that.

MR. SIMON: This was marked at the deposition as Exhibit D.

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THE WITNESS: This is his original signature.

MR. SIMON: It was marked at his deposition.

MS. LINDERMAYER: Let the record

reflect, Richard, you have all of the originals of these documents, including the deal file jacket and, you know, we expect all of these to be preserved up until the point of trial.

MR. SIMON: You even photocopied the deal jacket.

MS. LINDERMAYER: I understand. I don't want the originals to get destroyed or go missing. It appears you're using it as your personal file for this case.

MR. SIMON: No.

MS. LINDERMAYER: I just want that on the record.

MR. SIMON: It's just the deal jacket papers. It's nothing of my papers.

Q Let me ask you, sir, you have the

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file in front of you, is there any document that you believe is part of Mr. Tuhin's deal that is not in front of you right now?

A No, this is only document. You see, even here this explain exactly he bought everything here up front, you know. And this here, the bill of sale showing exactly he buy car for 22,000.

MR. SIMON: We're referencing

Exhibit B and D at Tuhin's deposition.
Q Let me ask you. What documents do you have to show that there was an auto protection policy actually purchased for Mr. Tuhin?
A It's in your hand.
Q And that is?
A Right there.
Q That's the document previously marked at Mr. Tuhin's deposition as Defendant's Exhibit L. Is this the document you're referring to?
A Yes.
Q What proof do you have it's actually been paid, like a check?

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A We have to give you the company and we'll call company and we'll get check from them.
Q What do you have?
A Copy of the check.
Q You have a copy of the check you sent?
A Yes.
Q The company claims they have never received a check from you.
A The company?
Q Yes.
A I doubt it.

Q Well, would you have a copy of the cancelled check?
A Yes.
Q You have a copy, you keep copies of the cancelled checks?
A Especially when they have case.
Q You have copies of all statements from New York Motor Group and cancelled checks?
A I can order it from bank.
Q Do you keep them?
A I can order from the bank.

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Q I'm asking, do you keep the statements and cancelled checks?
A Statement, yes.
Q Do you keep cancelled checks?
A Cancelled check is always online. If you need anything, I can print it.
MR. KESHAVARZ: I'll ask for document production for any proof of payment for anything regarding my client's vehicle.
THE WITNESS: No problem.
MR. SIMON: You are saying now this company denies that it ever issued the policy or the policy is in effect now?
MR. KESHAVARZ: Yes.
MR. SIMON: Do you know if Tuhin

ever cancelled this? Because this is cancelable by Tuhin.

MR. KESHAVARZ: It's never been paid.

A First thing is, M&T Bank, they'd be asking me about the money, not Tuhin.

MR. SIMON: If it were cancelled,

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money would go back to M&T Bank because this was part of the financed purchase price.

THE WITNESS: Correct.

MR. SIMON: When these get cancelled, a client wants it to be cancelled, the check that we get back from them goes back to M&T Bank, not to Tuhin.

THE WITNESS: Correct.

MR. KESHAVARZ: M&T Bank hadn't given us anything that suggested that had been paid.

Q So let me show you what appears to be marked as Defendant's Exhibit B from Mr. Tuhin's deposition of October 27, '14. I want to show you in the middle what's called "VSI for $90," do you see that?

A Yes.

Q What's VSI?

A This is balance. This is issued

by M&T Bank. This is protection for saying customer die, God forbid, VSI got to be off loan completely. This is something --

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protection for M&T -- required by M&T Bank by everybody loan.

Q That's an additional charge you put on every loan?

A Yes, this is the charge. We cannot mark it, this charge, we cannot. This only money go to M&T Bank.

Q That happened with Mr. Tuhin's account?

A Yes.

Q How do you know that?

A Excuse me?

Q How do you know M&T Bank got a check for $90 for Mr. Tuhin's deal?

A This is already in the loan, added to the loan. No special check.

Q You are saying M&T Bank requires VSI to be sold for every deal that's funded through M&T Bank, is that what you are saying?

A Correct, every deal.

Q Is that true for Santander?

A No, Santander is different. Only M&T Bank.

Q None of the banks you deal with?

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A No.
Q M&T Bank requires a VSI charge?
A VSI.
Q Tell me exactly what that is again.
A This is some type of insurance of -- this is for the loan. When person is dying, this loan has to be paid right away. It's only about death.
Q What other items are part of Mr. Tuhin's loan that he got? Look at Exhibit B? What's the deluxe package?
A Deluxe package, etching, this is a company, they give -- and again, say, example, does you have the car and...
Q Sorry?
A You driving car for two years, you make total loss. The insurance company, your insurance company, for example, or customer insurance company, they pay for value of the car in this moment. The customer, he always upside down, for example, and he owe much money, more than what he owe. Then this company here, deluxe package, they pay $25,000

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and a check belong to that customer and to the

dealership. He can replace car, buy another car.

MR. SIMON: That was marked as Exhibit G at Tuhin's deposition. Is that what you're referencing?

THE WITNESS: Yes.

Q So the check is issued to Technology Insurance Company?

A Yes.

Q How much?

A I not remember how much.

Q How much is the markup?

A I don't know exactly. I have to go ask.

Q The check was actually issued to Technology Insurance Company?

A Sure.

Q Would it surprise you Technology Insurance Company has no record of payment?

A They don't have payment? No, I doubt it.

Q So I'll ask.

A I asking this company. I get you

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this from them.

Q Is that something that's cancelable?

A No. It says here on policy on back "no cancelable."

Q And anything else that was sold to Mr. Tuhin for the total loss package, what's that?
A Total loss package?
MR. SIMON: You mean gap waiver?
A Again, I don't know exactly what's total loss package.
MR. SIMON: That would have been Exhibit H and M at the deposition, the gap waiver.
THE WITNESS: He signed every document. Every document is signed by Mr. Tuhin.
MR. SIMON: This is Exhibit M. That would have been Exhibit H, total loss protection for gap insurance.
Q Showing you what's marked Exhibit H at Mr. Tuhin's deposition of October 27, '14, what is this?

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A Policy, also, gap waiver.
Q What does that do?
A I don't know exactly.
Q New York Motor Group sold that to Mr. Tuhin?
A I have to find out what's benefit for this. I have to read all this here in back.
Q Well, did New York Motor Group

sell that policy to Mr. Tuhin?

A Yes.

Q Did New York Motor Group issue a check to that company?

A Yes.

Q Probably or yes?

A We not sell anything unless it's paid.

Q So you have records of that payment?

A I'll get you record for this.

MR. SIMON: Just so it's clear, if a person owns a car and has an outstanding loan, like M&T Bank, as the value of the car goes down, if the car's

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stolen or a total loss in a collision, the amount that you may collect from the insurance company is just the actual value of the car, for which, at that point, may be less than the amount of the balance due to the bank and that's the gap. And this goes for the benefit of M&T Bank instead of making a claim against the customer for that gap; that would guarantee that that gap is gap amount paid to M&T Bank, if the car is a total loss by theft or collision in the first part of the collision, the carrier only has to pay the actual value of the car, which could at that point be less now due the bank, so that's for the benefit of M&T Bank and the customer pays for this so M&T Bank wouldn't make a claim against them.

Q How much did New York Motor Group charge my client for the policy that's Exhibit H?

A I see here 4727.50.

Q $4,727.50 was for the deluxe

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package etching?

A Yes, read exactly here. You have to see this here, you know.

Q The line is off a little bit.

A Yes.

MR. SIMON: Well, it looks like it's all included. That would have been prepared by the finance manager?

THE WITNESS: Correct.

Q New York Motor Group charged a deluxe package etching, charged my client $4,727.50, correct?

A I guess so.

MR. SIMON: You mean for the whole thing?

Q For the deluxe package etching; is that true?

A That's what it says.
MR. SIMON: And the gap coverage.
It looks like it's all part of the same.
Q Looking at Exhibit B, in addition to 4,727.50 that New York Motor Group charged my client for the deluxe package etching, it also charged my client $6,000 and change for

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total loss package in addition to that, right?
A This was offered to Mr. Tuhin and Mr. Tuhin bought it. This is option. We not charge him.
Q You sold it to him?
A No, option. We offer him, they offer him and he paid.
Q So you sold it to him?
A Okay, sold it. If you want to say it was sold, we sold it. But we offer to him and he bought it and he agree to buy. That's reason why he signed next to each line.
Q So why would someone spend $10,700 for some sort of insurance when the sale price of his vehicle was only $12,000?
A That's question you ask Mr. Tuhin why he buying -- why you buying this here when you buying the car for 12,000.
Q Do you have any idea why that would be?
A I have no idea.

Q Is that something you would do?
A This is something Mr. Tuhin you got to ask him why you buying this stuff, if

you buying the car. You should buy this one here only. They offer him this here, and he buy it and he agree.
Q Would you purchase it?
A Me?
Q Yes.
A I not buying cars. I buying cars only for company.
Q So if Mr. Tuhin didn't get the deluxe package etching and total loss package, the price of the vehicle would be $10,700 less, right?
A I guess so.
Q So looking at Exhibit D, why did the price of the vehicle not change when those two items were not listed?
A Because in this bill you show him.
Q This bill of sale, being Exhibit B?
A He itemize this here to understand very well to Mr. Tuhin and we tell him this is -- here we have to put it in the price of the car in order to take it. "You agree?" He say "Yes, I agree." Then we make bill of sale

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again for all the price and he sign for it and he sign and he say "Okay, I take it, no problem." And he sign everything here in total of the price 26,200 and he sign here and he sign here. Does he agree with this here? And he agree with this here.
Q So there is nothing wrong?
A Nothing wrong.
Q This is nothing wrong with New York Motor Group having Mr. Tuhin sign two bills of sale?
A Nothing wrong because sometimes people, they don't understand. If he coming back, we tell him "Okay, excuse, me, you know, very good that's what you buy. We offer you this and you agree."
Q Putting aside --
A If he say, example, "I'm not agree from beginning," you understand, we never give him this, but if he coming back, he saying "I'm not agreeing," "Excuse me, this you agree 100 percent because you sign this here all."
Q So for every vehicle New York Motor Group sells to consumers, it gives them

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two separate -- what do you call the document -- buyer's order or sales?

A Buyer's bill of sale.
Q Bill of sale. So for every car that New York Motor Group sells, it gives the consumer two different bills of sale, correct?
A Not really.
Q What do you mean "not really"?
A Not really. For people this is buyer's remorse only. "No, I take --" "I'm not sure, I take it," you know. You tell them "Okay." This protect the company. He come back say "No, I don't want it, I never agree." We tell him "No, you agree right here."
Q Nada testified for every deal that she saw, there were two bills of sales, every deal she saw at New York Motor Group there were two bill of sales; is that true?
A Not really true. I not remember how many people they sign two bill of sale or not.
Q Your common practice at New York Motor Group is to give consumers two different bills of sales, right?

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A It's irrelevant anyhow.
MR. SIMON: Note my objection to form, but you can answer.
Q Go ahead.
A I don't know if they sign two bill of sale, but it is -- two bill of sale is the

same number. We not changing number. Same number. You see here, this is the end. Here is 26,200. The other one here is also 26,200. We not making -- between the two here, the same number end, is not lying.

Q You are saying that both Exhibit B and D, the total amount financed is the same number?

A Exactly. If he sign two bill of sale or one bill of sale, but number is the number. It's not change. No change any number.

MR. SIMON: Note for the record, Defendant's -- well, Exhibit C at Tuhin's deposition is consistent with the same number 26,209.

THE WITNESS: Exactly.

Q Why does New York Motor Group have

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customers sign two sets of bills of sale?

A Sir, I explain to you before. You want to write this?

Q Let me ask you this. In Exhibit D, Mr. Tuhin is not paying for deluxe package etching or total loss package, right?

A Are you serious?

Q Is that true?

A Okay, what's here? What's the number here?

Q You're pointing to the service contract for $3,000.

A No, but what's number here?

MR. SIMON: Cost of the car.

Q All right, I'm trying to figure out, if you look at the bill of sale, how do you tell what you're purchasing?

A You purchase the car -- you purchase the car already for this amount and this here is service contract and amount is 26 and he has agreed. I tell you again and again, I try to help him, you understand? He cannot afford payment for 400. What's payment? His payment is written here, $433. His payment is

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$433 monthly and he left already. Before he left already, he knows already his payment monthly $433.

Q So you are not surprised two bills of sale, one with an itemization, one without?

A That's irrelevant. I telling you only number is saying. It's the same number.

Q Is it common practice at New York Motor Group to have two different bills of sale that have the same amount financed but some have itemizations as to options and other ones don't have an itemization for options, is it common practice for New York Motor Group to have its customers sign two sets of bills of sales that have the same amount financed but one is itemized, one is not, that's common?

MR. SIMON: Objection to the form of the question. You're assuming every customer is going to buy an add-on?

Q That's common practice at New York Motor Group, right?

A We offer -- he offer customer already the equipment and he buy it. We not forcing him to buy anything. We offer him. We

offer him. Do you understand offer? We not twisting arm tell him "No, you have to buy this stuff" or we put gun in his head, tell him "You have to buy this stuff." No, we offer him "Mr. Customer, would you like to buy this?" He say "Yes."

Q Every sale at New York Motor Group there's an add-on?

A We're talk about sales here.

Q That's not my question.

A Excuse me. We talk about this sale here.

Q No.

A If you want to go to every sale in New York Motor Group is different story.

Q I'm asking about your common practice. You've been selling cars your whole life.

A This is way this -- every F&I you have way to close customer. I think the way he get -- already offer customer this, this -- he tell him "Okay, you getting this, okay, sign here, you take this, sign here." And so, you know, the number is not change. The number

♀

here is end total, is number in the end. Same thing.

Q You mean the amount financed is the same?

A Same thing.

Q I've been trying to ask the question a few times.

MR. SIMON: Note for the record that his characterizations "both of them," that the bill of sale for purposes of this deposition --

MR. KESHAVARZ: Mr. Simon, if you're going to make objection to form, say "objection" to form.

MR. SIMON: I object to the terminology.

Q Sir, you used the term "bill of sale" for Exhibit B, correct?

A Correct.

Q That's what it's called in the industry?

A Calling what?

Q The practice in the auto industry, something like this is called a "bill of sale"?

M. Eltouby

A Bill of sale or buyer's order. It's same.

Q It's the same.

A Similar, yes.

Q What's the difference between buyer's order and bill of sale?

A Same.

Q No difference between the two?

A Not really, sir. Not really different.

Q When you say "not really different," it's not different --

A Not different.

Q -- buyer's order and bill of sale. Now, what I'm trying to figure out, anytime New York Motor Group sells an add-on, service contract, etching, total loss protection, anything, anytime that happens, New York Motor Group's policy is to have the consumer sign two bills of sale, one with the itemization, one without; is that true?

A Yes.

Q And is that true?

A Not every deal.

M. Eltouby

Q Not every deal?

A Not every deal.

MR. SIMON: Objection to the form of the question.

Q When you say "not every deal"?

A Not every deal.

Q Not every deal?

A Every deal is different. Somebody buying car, cash. Somebody buy only car, he say "No, I want only price of the car and tax and that's it, this I don't want any other things." We don't need to make -- add to bill of sale. Only one bill of sale.

Q If there's no add-on, only one bill of sale?

A Right.

Q If there's an add-on policy, New York Motor Group would to have two bills of sale?

A Yes, one itemized, one is not itemized.

Q You knew what I asked, but the reporter is scowling at us again. I'll ask it again. Anytime New York Motor Group sells

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anything with an add-on, they would have the customer sign two bills of sale, one with an itemization of the add-ons and one without an itemization of the add-on; is that true?

A No.

Q In what way?

A In way this is every bill of sale if customer he agreed to buy -- to buy this package, then we make another bill of sale with itemize, make sure customer cannot go back and say "No, I never offer this, I never did get offer for this," you know. Then we show him bill of sale already, this is exactly "You sign here, we offer you this and you sign next to it." You see here he sign next to it. Okay, this is exactly what we offer him. We tell him "Okay, you buy this package, you agree, you say, yes, sign here please that you agree."

Q I was just trying to make sure we nailed down the answer to the question and if you answered it, I apologize for asking it again, but it wasn't clear to me from my own handwriting, which is not the clearest about what the answer was.

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A No problem.

Q So the question is, every time New York Motor Group sells a car with an add-on like VSI, deluxe service package.

A It's called after sale.

Q After sale.

A Correct.

Q Anytime there's an after sale, every time that happens, New York Motor Group's policy is to have two bills of sale, one with an itemization of those charges and one without an itemization of those charges; is that true?

A Correct.

Q Is that also true at the other dealerships you've worked with?

A Which other dealership?

Q Is that also true at Planet Motor, is that true?

A No.

Q Is it also true at Hillside?

A No, this is only -- every finance manager he do his own policy, you want to show me he not fool the customer, you understand? He don't want to show me he fraud customer. He

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tell me "I offer customer this, this, when I offer customer less, he agree and I let him sign, this is his signature and you can call customer, ask him if he sign or not."

Q Policy having two bills of sale with itemization and not, that's policy New York Motor Group had before Mr. Estrada?

A No, Estrada only he do this.

Q You knew about it, you didn't have a problem with it, right?

A I don't have problem with it because this is the -- number is the same. It's not we change. He not change number from this bill of sale to this bill of sale. It's same number. The number not lie. Anybody can read the number, any nationality can read the number.

Q You knew Mr. Estrada was doing that as soon as he started working there, correct?

A I know he do this a lot. Especially when he sell. This is after sale.

Q You knew he did that from when you started having him work there, right?

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A More or less.

Q Thank you.

Look at Exhibit D, which is an itemization of service contract, but not of the other add-ons, deluxe package etching and total package loss.

A I explain already.

Q No, they have some itemizations in D, but not complete itemizations. Why do you have any itemizations on D?

A Which one?

Q In D you have itemizations of service contract. Why is that itemized, nothing else?

A Service contract?
Q Yes.
A Yeah, because service contract is something return.
Q Returnable?
A Yes.
Q Cancelable?
A Yeah, he can cancel. Customer can cancel this.
Q Other items --

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A Is not cancel.
Q The other item, is that generally true if an item is sold at New York Motor Group if it's printed underneath where it says "subtotal," those are not cancelable?
A Where?
Q Says "subtotal" here but here it's blank, but -- D is blank, but B is itemized. Is that always true for New York Motor Group if it's not cancelable it's in the section just beneath "subtotal"?
MR. SIMON: I think what happens, the bank financing this deal wants to know what's cancelable or not. The bank wants to know that's cancelable.
THE WITNESS: He cancel. This is part of finance, the bank is -- the bank got to get this money back, not him.

MR. SIMON: Actually, the bank requires that. They want to know what's being financed and cancelled so they are not being ripped off.

Q Were you going to say something?

A No.

Q What is Exhibit A?

A This is salesman. He say to finance guy, the customer he wants to pay only this. I have already deposit $2,000, and, you know, he provide this to the finance guy and he got to sell him the item. So he sold him the car with this here and then come in two sales, one salesman and finance manager.

Q Where's the original of Exhibit A?

A I don't know.

Q Why is it not in the deal file?

A I don't know. It's not relevant. They already have here. It cannot be three bill of sales.

Q Well, there's two. Why can't there be three?

A There cannot be. Here this have any known number, that's all. Just only customer, he wants to pay this. He shows to customer, he wants to pay this. The car is already more than this money, you know, customer he want to pay only this.

Q So Exhibit A is not a binding agreement, is that what you are saying?

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A It's nothing, you know.

Q Even though the dealership and Mr. Tuhin signed Exhibit A?

A Yeah, this could be also -- this is, you know, a buyer's order. This is a buyer's order.

Q What's the difference between a buyer's order and a bill of sale?

A This is buyer's order. When customer coming in, this is negotiated between him and salesman.

Q The dealer signed Exhibit A and Tuhin signed Exhibit A, right?

A Okay.

Q Is that right?

A This is salesman.

Q And that happens for all of the cars that New York Motor Group sells, it has a consumer and a dealer both sign the buyer's order first, right?

A Buyer's order first. He put money, is he serious buyer, he put in down payment, you know, this mean he's serious buyer and that's reason he bring it to the finance

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office. If you not paying anything, no payment, no down payment, no nothing, the salesman, he not bring it to the finance manager because it's waste of time.

Q Has any customer at New York Motor Group if they don't go through with the deal, they have to pay a penalty?

A No. This is bill of sale from new car dealer, you know, we copy only.

Q I'm sorry?

A This is copy from new car dealer, and we take it and put our name and type -- you know, they have all regulations, you understand, for Consumer Affairs, for, you know, Department of Motor Vehicles, all this. They have better, you know, bill of sale. We not create it. This is from new car dealer.

Q So the sales documents that New York Motor Group uses, do any of them have a cancellation penalty?

A No, no, we don't do cancellation penalty because it's very simple. If customer not taking the car, you understand, he can go to Small Claims Court, get money back. We not

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make it to be go to small claims. "Mr. Customer, you don't want car, here's your money, bye bye."

Q You didn't do that for Mr. Tuhin? Why didn't you do that for Mr. Tuhin?

A He never come back and say "I don't want the car, you know, I want my money back." He never do this. He signed everything.

MR. KESHAVARZ: Mark this as the next exhibit.

(Thereupon, a demand letter dated 9/12/14 was marked as Exhibit 2 for identification, as of this date.)

Q I'm going to show you the original copy of Exhibit A. Is this the original version of Exhibit A, sir?

A Yes.

Q Look at the bottom where it's highlighted. Does it say the customer has to pay a cancellation fee equal to 35 percent of the purchase price?

A Okay, this is just only writing, but we never charge any customer this

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cancellation fee. Give me one customer we charge him cancellation fee. Get me one customer.

Q Mr. Tuhin?

A Mr. Tuhin? He never asking for his money back. He signed contract. He asking for his money back after two months when he driving the car and he decide to go back and he want return the car after car sold to him and registered under his name.

Q Exhibit A was a document created by New York Motor Group, correct?

A Yes, this one here, same like this, same like other one.

Q Why did New York Motor Group include the penalty language in Exhibit A?

A I telling you again we copy this bill of sale from new car dealer next door, you know.

Q New York Motor Group's position Exhibit A --

A We don't make this.

Q New York Motor Group's position is Exhibit A is not an enforceable agreement

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between Tuhin and the dealership, is that New York Motor Group's position?

A Freeze this because I not understand what he say. What he say?

Q Do you understand New York Motor Group's position that Exhibit A is an enforceable agreement between the dealership and Mr. Tuhin or not?

A Enforcement?

Q Enforceable agreement between them.

A No.

Q It's not an enforceable agreement between them?

A No enforcement. We're not enforce anybody to buy car from us.

Q When you go home -- you're coming back tomorrow, can you bring the document in your briefcase, bring it back in the morning, the insurance?

A Okay, if I catch dealership open.

MR. KESHAVARZ: Mark this.

(Thereupon, an Internet ad was marked as Exhibit 3 for identification,

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as of this date.)

Q Look at Exhibit 3, is that New York Motor Group's Internet ad for the sale of the vehicle for my client?

A Yes. What is this here? Which website is this?

Q Is that New York Motor Group's website?

A One second.

Yes.

Q Who determines the price to put on New York Motor Group's website?

A Who decided? This is sales manager.

Q Who was it for Mr. Tuhin?

A Mohammed Rasmy.
MR. KESHAVARZ: Thank you.
EXAMINATION BY
MR. LANE:
Q Mr. Eltouby, my name is Peter Lane. We've met before. You know I represent Anwar Alkatib, Boris Freire, Miriam Osorio, Simon Gabrys, Zhengui Dong, Nasrin Chowdhury, the five other plaintiffs.

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A I think he settled between Capital Bank and us?
Q No, not with you.
A He get car for free.
Q We can talk more about that in a second.
A No problem.
Q So I'm going to go through a few more questions this evening. We're going to try to wrap up at 6:00. Then we'll start again tomorrow.
I know that Mr. Keshavarz went through this. I want to make sure before I start, you're aware that you are under oath and that you need to answer any questions that I ask you honestly.
A Uh-hum.
Q If you don't understand anything I say, please ask me to repeat it or rephrase it.

And let me just get to it. So if I am not mistaken, you've testified, please correct me if I'm wrong, you've testified that you hired Julio Estrada to work for you at New York Motor Group in December '12?

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A Correct.

Q When is the first time you met Julio Estrada?

A When I come to Northern Boulevard, he was working in Auto Palace and he ask me to -- he have a customer for a car that belong to the company. And he tell me "I have a customer and I can --" you know, "Can I put customer in the car?" And I tell him "No problem." He ask me how much he want for car. I tell him how much I want for the car. He did already the deal and they did it with no problem.

Q I'm not sure I understood what you said, but did Mr. Estrada contact you to see if you would be willing to have the car sold through New York Motor Group using New York Motor Group's financing?

A Yes, but he don't have the car. The customer, he asking for particular car. I was -- in this time I have it. And he said he lost that deal, he don't have any money, commission. Then he called me and asked me -- I have customer and he wanted the car. And I tell him "Okay, go ahead if you want to." He

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tell me "Okay, I want to do it through you instead of through Auto Palace, you know." Then I did already I did with him the deal and it went through and there was no problem. This the first time I meet him.

Q Do you remember what year that was?

A Beginning of '11.

Q Did you speak to Mr. Estrada again after that before you hired him?

A Before I hired him? Yeah, he was coming up and down, you know, it's because I am on 161st Street, right.

Q Right.

A He is by 50th something, you know, couple blocks away. Not far.

Q Both on Northern Boulevard?

A Northern Boulevard, you know. Sometimes he come say "Oh, you have nice cars here."

Q When did you decide to hire him?

A I have a guy, he used to work with him together.

Q Angel?

A Angel. Angel is not finance guy. Angel is sales manager and he tried to learn finance. He is not really finance guy, but he was trying, and he did -- you know, he did deals, you know. In the meantime, he do one deal, he lost two deals, something like this. When Julio come to me, I know they have problem when they closing, you know, the Auto Palace.

Q Just so I understand, did Julio come to you asking for a job?

A Yes.

Q And that was after the District Attorney closed Auto Palace?

A Correct.

Q So you knew Auto Palace had been shut down by New York State?

A Yes.

Q When Julio came asking for a job?

A Yes.

Q What name did Julio Estrada use with you when he met you?

A Jay.

Q When he came asking for a job, did he ever tell you his name was Julio Estrada?

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A Yeah, I know this.

Q You know his name is Julio Estrada?

A Yes, I know this for fact.
Q How did you know his name was Julio Estrada?
A I see all time everywhere, you know. Angel, he was working with him like almost five years, and he know everything about him, you know, and Angel -- also people coming from Auto Palace says people bugging me for business, you know. I hire couple of them, you know, two salesmen something like that.
Q Before you let Julio Estrada begin working at New York Motor Group, did you call the Queens District Attorney to ask about the arrest?
A I was with him connected, very connected with the District Attorney because he was try to arrest him, but he doesn't know where he is. Then he knows very good he come up and down to me sometimes, you know. Then I told him, you know, I told District Attorney he asked me for car loan.

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Q When was this?
A That was before I hired him.
Q Before you hired him, okay.
A And District Attorney told me "Okay, give him the car and before you give him the car, let me come see the car." When he come in, he tell me "Listen, I put tracking

device because I got to arrest him sooner or later."

Q This is before you hired him?

A Yes.

Q Okay.

A Before when he finish already dealing with Auto Palace.

Q When you hired Julio Estrada, did you have him fill out any IRS paperwork?

A No, because he have his own company. He have company called "PTG Enterprise." This is his company.

Q We've been using the word "hire." You've acknowledged you hired him. So did you make him an employee?

A Not really because I don't know nothing and I was scared to hire the guy, you

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know. I was really don't want to hire him, you know.

Q You did not want to hire him?

A I no want to hire him.

Q Why did you hire him?

A He begging me. He told me "I have seven kids, please, I'm not the one bad guy. Mr. Cacers (phonetic), he's bad guy, so he push me to rip people. I want this money. I know very good he owe car for 15. He tell us he owe car for 20, you know, some kind of things. You got to watch me. I don't do anything and it's -- you can ask my lawyer, you know."

Then I have in my mind, I say the guy he can't do anything because if he do something, he got to go to jail right away and he don't want to go to jail, you know. You ask Mr. Driscoll, Detective Edward Driscoll, I cooperated with him. I cooperated with him big time.

Q When did you start cooperating with Detective Driscoll?

A Long time. Also before he get him arrested.

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Q But before you hired Julio Estrada, were you in contact with Detective Driscoll?

A Yes.

Q How did you know to contact Detective Driscoll?

A I have his cell phone number.

Q Who introduced you to Detective Driscoll?

A He come to me.

Q When did Detective Driscoll first come to you?

A Sometime in middle of '12.

Q Why did Detective Driscoll come to you in the middle of '12?

A After he shut down Auto Palace and he ask me couple questions about financing and how the business is and everything, I explain him how this works.

Q When you hired Julio Estrada, did you tell Detective Driscoll you hired Estrada?

A He knows.

Q How did Detective Driscoll know you hired Estrada?

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A Because I think he feel -- I felt does he want to know exactly, Driscoll, he want to know what he is because he have -- he tried to -- couple things, to arrest him, couple additional things, you know. Then at least he knows where he is.

Q So you did give Julio Estrada a loaner car at some point?

A No, in this time only when Detective Driscoll tried to, you know, arrest him.

Q That was in '14, right?

A This is '12.

Q '12?

A Yes.

Q But he was arrested at Auto Palace?

A He was arrested at Auto Palace, yes.

Q Did you hire everyone who worked at New York Motor Group? Like were you responsible for hiring every person who worked at New York Motor Group?
A Yes.

Q Did you interview everyone who worked there?
A Yes.
Q How did you pay your employees?
A Pay in checks.
Q In checks?
A Yes.
Q Were any of your employees W2 employees?
A Yes, some of the employee, you know, because when I hire somebody, you know, the first week, you understand, I see how is the person work, you know, don't need to put him on W2 and after a week he's gone.
Q You try them out first?
A Yes.
Q Julio Estrada, was he a W2 employee?
A No, he 1099.
Q Did you give a 1099 to Estrada or a 1099 to PTG?
A To the company, PTG Enterprise.
Q When you hired Estrada, did you

allow him to set up his own procedures for

financing?

A No, what happened is Angel, which he's working with him five years, you know, he come. In the beginning, I don't want to hire him. I was worried, you know, does he come in all time close for Angel and help him to close the deal, you know, and he get successful, you know. He tell me "You see Angel, he cannot structure the deal, I did for him." I say "Thank you," you know. It's couple time until he tell me "Listen, you're missing about 10, 15 deals here because Angel, he doesn't know finance, you know, what do you want to do?" I tell him "Listen, I don't want to do this because you have bad record and you have this, this." He tell me "This is all of lying, this is all lie, I can take you to my lawyer and he telling you everything, you know, I'm innocent for all this and you will see."

Q So you appreciated that he could close the deals that Angel couldn't close?

A Correct.

Q And you hoped that he could make you more money?

A No, I hoped only does he do straight deals.

Q I understand, but you did believe that Angel was losing deals?

A Correct.

Q And you hoped if Estrada was working as your finance manager, that you would have more deals closed?

A Correct.

Q So I don't know if these questions were asked before. There was a lot of talk about several other dealerships. I just want to ask some really point-blank questions.

Who owned Planet Motor Cars?

A Planet Motor Cars, Mohamed Masoud.

Q Are you related to Mohamed Masoud?

A No, he's good friend of mine. I know him since I was in Germany. I will send him car to Egypt, you know. Honestly between each other. Honest work.

Q Did he live in New York City?

A In beginning, yes, and go back and forth.

Q Back and forth between Germany?

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A No.

Q Egypt?

A In America and Egypt.

Q He was a close friend?

A Yes.
Q Did your children know him well?
A Yes.
Q Would your children have ever referred to him as "uncle"?
A Not really.
Q You were here for your daughter's deposition, Nada?
A Yes, this is respectable by us when you say "uncle" for older.
Q That's what I mean.
A For elder, you know, but, you know, very good. This is no relationship.
Q Sure.
A This is only a friend.
Q Is it common in, I guess, in Egyptian culture to use the term "uncle" for a respected older person?
A Yes, respected. And if he come in here stay by us, or if I go to Egypt I stay by

♀

him, you know, close friend.
Q I feel like I've seen different addresses for Planet Motor Cars. 161-10 Hillside Avenue and also 161-14 Hillside Avenue.
A No, it's 160-14.
Q 160-14 is the address for Planet Motor Cars?

A Yes.
Q Now, Hillside Motors, LLC, is operating at 160-14 Hillside?
A No, 161-10.
Q 161-10?
A Hillside.
Q Hillside. Different address.
Did Planet Motors ever use the address 161-10 Hillside Avenue?
A Yes, long time.
Q When?
A Before '10. This is -- they have recession, they moved.
Q I'm sorry, after the recession it moved?
A When there was recession, they

moved to small lot.
Q To 160-14?
A Correct.
Q Do you remember who took over 161-10 Hillside Avenue?
A It was company. I think it's called "Livery Leasing New York."
Q When did Hillside open up at 161-10?
MR. SIMON: You mean Hillside Motors?
MR. LANE: Hillside Motors.

Q When did Hillside Motors open up at 161-10 Hillside Avenue?
A I don't remember but this sometime '12.
Q '12 or so?
A Yes.
Q When did Planet Motor Cars leave 160-14 Hillside Avenue?
A This is around -- in the beginning of '12 or '11. End of '11, something like this.
Q End of '11?

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A Yes.
Q Or '12.
Who's the owner of Hillside Motors, LLC?
A Shadia Ibrahim.
Q Ms. Ibrahim is your partner?
A Not partner.
Q You live with Ms. Ibrahim?
A My boss.
Q You live with her?
A Yes.
Q But you are not married?
A Not here.
Q You are not married here in the States?
A No.

Q You're married in Egypt?
A Yes, some relation. By us it's relation/married. This is exactly like...
Q You never entered into civil marriage in New York State?
A No.
Q But you have children together?
A We have children.

♀

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Q Two children with Ms. Ibrahim?
A Yes.
Q Why did she decide to open an auto dealership?
A I don't know.
Q Did she ever work at an auto dealership before '12?
A Not really. I don't know. You got to ask her these questions.
Q How long have you lived with her?
A How long?
Q Yes.
A How long I lived with her? From 1995, 1996.
Q When did you first meet her?
A In Egypt.
Q When, what year?
A 1995.
Q So in all the time you knew her from 1995 to 2012, did she ever work at an auto

dealership?
A Couple times. Just only accounts payable.
Q Had she ever owned a business

before '12?
A No.
Q Does she work at Hillside Motors every day?
A Yes.
Q Does she hire the staff at Hillside Motors?
A Yes.
Q Does she train the staff at Hillside Motors?
A No, she have a manager to do this.
Q Who is the finance manager at Hillside Motors?
A Somebody name Shawn Fortune.
Q We'll have to ask Ms. Ibrahim?
A Correct.
Q I think Mr. Keshavarz asked you this. I think he told you Julio Estrada testified at his deposition that while he was working for you at New York Motor Group, he would also be sent to Planet Motor Cars to close deals there.
A Never.
Q No?

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A Never.

Q He also indicated that he had been sent over there to help with difficult clients or customers.

A Never. Those are people that don't like him.

Q People at Planet did not like him?

A Did not like him, no.

Q Are you aware that cars sold from New York Motor Group's lot sometimes were sold with documents naming Planet Motor Cars as the seller, are you aware of that?

A What happened is the -- according to the bank business, you know, he get customer, example, he don't have the bank in New York Motor and then he did it through Planet Motor, that's exactly the deal.

Q Who didn't have the bank? You said he didn't have the bank?

A New York Motor, say, example, they have M&T Bank and they have, you know, Capital One.

Q Let's do --

A Have bunch of banks, you know,

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banks. You know, you're missing the example, Santander. Santander is a sub-prime bank, they take people who have 400 score, take people who have 500 score, they treat people -- this is the sub-prime. Exactly like prime, they void already proof of income and proof of this, proof of this. That's reason bank get successful and get elevated very, very fast.

Then what he did, Julio, you know, have a customer, you know, example, very bad credit, he doesn't have any credit and he doesn't give -- example, off the book, say example, he get paid cash.

Q The customer?

A He cannot prove his income, you know, but he put down big down payment, say, 30 percent of the loan he put up front. Then right away Santander say "As long he put 30 percent of the loan, we waive his income."

Q Okay.

A That's exactly like you buying house, you put 25 percent, no verification income. You get this?

Q Yes.

♀

A Thank you.

Q What banks would do business with New York Motor Group?

A Santander.

MR. SIMON: Note my objection to
the form of the question. You mean ones
they had a dealer agreement with?
MR. LANE: Yes. Thank you. I
appreciate that clarification.
Q So what banks did New York Motor
Group have a dealership financing agreement
with?
A So Santander.
Q What else?
A I think only this bank. Other
banking -- they have all the other banks.
MR. SIMON: I couldn't understand
what you said. Could you say it a
little bit louder?
THE WITNESS: Yes, New York Motor
Group have all the banks that Planet
Motor Cars have except one bank only.
Q Santander?
A Correct, thank you.

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M. Eltouby
Q New York Motor Group and Planet
Motor Cars had all of the same dealership
agreements, except New York Motor Group had
Santander, Planet Motor Cars didn't?
A Planet.
Q Planet had Santander, New York
didn't, okay.
MR. SIMON: I think he got that

wrong. He said it opposite.
MR. GROSSMAN: Read back the question and answer.
(Record read.)
Q Let's clear that up. That record is a mess.
Did Planet Motor Cars have a dealership agreement with Santander?
A Yes.
Q Did New York Motor Group have a dealership agreement with Santander?
A No.
Q Did New York Motor Group have a dealership agreement with Capital One Auto Finance?
A Yes.

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M. Eltouby
Q And did Planet Motor Cars have an agreement with Capital One?
A Yes.
Q So except for Santander, New York Motor Group and Planet Motor Cars had agreements with all of the same banks?
A Correct.
Q So do I understand it correctly, that if a customer at New York Motor Group would only be approved by a sub-prime bank?
A Santander.
Q Their loan would have to be

financed through Santander?
A The customer removed to Planet Motor Cars and do the deal over there.
Q From the physical location of Planet Motor Cars?
A Yes, location for Planet Motor Cars.
Q So as far as you know --
A Instead they lose the customer.
Q -- New York Motor Group would lose the customer?
A Lose customer because they don't

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M. Eltouby

have Santander, you know, then they give the deal to Planet Motor Cars.
Q Are you aware that customers at New York Motor Group would get transaction documents that listed both New York Motor Group and Planet Motor Cars as the seller?
A No.
Q You are not aware of that?
A No, I don't know.
MR. LANE: Mark this as Exhibit 4.
(Thereupon, a theft deterrent product protection document was marked as Exhibit 4 for identification, as of this date.)
Q I'm going to give you what we marked as Plaintiff's Exhibit 4. I want you to

look at both sides and before I give this to you, this was given to me in response to a demand for documents from your attorney, Bruce Minsky, as documents that were part of the deal jacket for Anwar Alkatib.

A Must make a mistake.

Q Okay, why?

A Because this here is service

♀

M. Eltouby

contract.

Q Service contract?

A Service contract. And this is -- here's another one. This is -- you see here, this is protection. Maybe he make mistake and make copy of this, copy of this in one paper. Maybe he was trying to save paper for you.

Q Those are two separate documents?

A Two separate documents, yes. This is service contract, the warranty.

Q Right.

A This is the protection plan.

Q On the service contract, what company is listed as the seller?

A Planet Motor Cars.

Q On the theft deterrent product protection, what company is listed as the dealership seller?

A New York Motor Group.

Q Right.

A This is a mess. This could be mistake for somebody, you know, error, mistake, human, you know.

Q Do you remember Boris Freire?

A Who's Boris Freire?

Q Boris Freire and his partner, Miriam Osorio. I don't know if you remember them. I'm not sure actually if you ever spoke of them.

A What kind of car?

Q Honda Odyssey van.

A Honda Odyssey, what year is it?

Q '10.

A '10. How long ago is this?

Q '13. February '13 they bought the car.

A Okay.

Q So I'm just going to show you several documents that were also given to me by you or by your attorney, Bruce Minsky, in response to a request for all documents in your possession related to Mr. Freire's purchase of the Honda van.

A I never hear this guy's complaint. What's wrong? He complain about what?

Q That's not my question right now.

MR. LANE: Mark this.

(Thereupon, a series of documents

M. Eltouby
from Freire transaction were marked as Exhibit 5 for identification, as of this date.)
Q So Mr. Freire was another New York Motor Group customer who only ever visited the dealership at New York Motor Group's location.
A Okay.
Q And again, these were some documents that were turned over by your attorney, Bruce Minsky, when I asked for everything related to Mr. Freire's transaction. Just take a look at all those documents. Double sided, so look at the front and back of each page.
A Okay.
Q Page one, what does that first page show us? What kind of document is this?
A This is bill of sale.
Q Bill of sale. Is that New York Motor Group's name at the top of the document?
A Right.
Q Next page starts, what kind of document?
A The contract.

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Q Retail installments sales

contract?
A Yes.
Q And who's listed as the seller on the retail installment sales contract?
MR. SIMON: You need to look.
A Santander Consumer, USA.
Q Who's listed as the seller on the top of the retail installment contract?
A Planet Motor Cars.
Q Do you think this is another mistake?
A No, another customer of Santander. Santander, you know, but he's suppose -- so I think he give this to the customer to tell him to go over there. And we printed the contract over there because, you know, this supposed to be, you know, copy of the, you know, so we can -- this just only here for protection. This customer, he agree to everything in terms and he supposed to be -- it's missing another bill of sale from Planet Motor Cars.
Q Must be another bill of sale in the document.

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M. Eltouby
A Must be another bill of sale for Planet Motor.
This is most important thing, service contract, which says already down there.

Q Do you recognize whose signature is at the bottom?

A Julio Estrada.

Q Julio Estrada's at the bottom of the retail contract?

A Yes.

Q Was Julio Estrada authorized to sign contracts on behalf of New York Motor Cars?

A Not really. He feel he's F&I. This is -- actually nobody is. The bank -- he doesn't think. Only specific who signs this here, you know. Most important for bank, signature of the customer is correct. If this is -- I write here, example, Mr. -- any -- whatever, and write F&I, bank doesn't care. He care about customer, you know, signature. And you see here in bottom, you see here in the bottom it says also Santander Consumer, USA.

♀

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Q I see it.

A Here is Planet Motor Cars. And this here also original contract say customer name and Planet Motor Cars here. It's a Santander deal.

Q I understand it's a Santander --

A This supposed to be in the folder, another bill of sale say Planet Motor Cars.

Q Yes, but if Julio Estrada did not

work for Planet Motor Cars --
A He not working there.
Q -- why was he signing contracts that list Planet Motor Cars as the seller?
A It's irrelevant, you know, it doesn't make any -- you know, doesn't matter.
Q Were you aware he was signing contracts?
A I was not aware about it.
Q You were not aware he was signing contracts?
A I suppose to be signing because I'm the signed agreement -- I sign agreement already with Santander.
Q On behalf of Planet Motor Cars?

A But I not do financing, you know, you think every finance manager is call already Santander tell them "Excuse me, I'm finance manager, now I got to sign from now on the contract," no.
Q Why did you allow Julio Estrada to sign contracts for Planet Motor Cars?
A I'm not allow him, but he don't want to lose deal, probably he sign and he is not funded. You got it?
Q So he was able to sign contracts for companies other than New York Motor Group?
A Anybody can sign the contract have

working, but working for that Planet Motor Cars or New York Motors, anybody can sign contract. It's not supposed to be Julio.

Q Anybody can sign?

A Anybody can sign. As long as it's signed in front of him. The customer sign in front of him because the person sign -- say "Yes, I see customer sign."

Q But no customers were signing contracts that listed Planet Motor Cars as the seller when they were standing in Julio

♀

Estrada's office at New York Motor Group, did you know that?

A I know he always take them to other location always, you know, they go sign contract over there. Probably he take him with the car and over there he sign and bring him back, you know, and deliver car from over there. I don't know exactly.

Q I thought you had testified before that Julio was never sent over to Planet Motor Cars.

A No, he never came.

Q He never went to Planet Motor Cars?

A He never went to, but he send the customer. He always send customer.

Q Who would work with the customer

over at Planet Motor Cars?
A Either the other finance guy used to working for us is Cesar or Sean Fortune.
Q Sean also worked at Planet Motor Cars?
A Yes.
Q Before he worked at Hillside?

A Yes.
Q So Sean worked at Planet Motor Cars until it closed?
A Sean working, yes.
Q After Planet Motor Cars closed, Sean started working for Ms. Ibrahim at Hillside?
A Yes.
Q He's worked at Planet Motor Cars in '11, '12?
A Mostly people is gone.
Q Who was the sales manager at Planet Motor Cars?
A I don't remember his name exactly. This guy used to work for Lexus dealership. He was manager in Lexus dealership.
Q How many employees were there at Planet Motor Cars?
A It's small place. It's about four or five, something like this.
Q Did you hire Sean to work at

Planet Motor Cars?
A Yes.
Q You hired him?
♀

M. Eltouby
A Yes.
Q So you had the ability to hire people to work for Planet Motor Cars?
A Yes.
Q Again, what was your title at Planet Motor Cars?
A Manager.
Q You also signed dealership agreements with the banks on behalf of Planet Motor Cars?
A Of course.
Q When Planet Motor Cars closed, did you ask Ms. Ibrahim to hire Sean at Hillside?
A I tell her he's a good guy.
Q You recommended that she hire Sean?
A Yes.
Q Did Sean and Julio ever work together?
A Never.
Q Who are the other employees at Hillside?
A Right now?
Q Who works at Hillside right now?
♀

M. Eltouby

A Salespeople.
Q What are their names?
A You want names of each one?
Q Yes, name of each person working at Hillside now.
A Salesman is Jamal.
Q What's Jamal's last name?
A If you want last name, I got to bring for you all last name tomorrow.
Q Okay, so sales is Jamal. Who else is a sales rep?
A Alvaro, Javier, Arturo. That's it.
Q Sean is the finance rep?
A Yes.
Q Who's the manager?
A Shaheed Khan.
Q And Sean is F&I?
A Correct.
Q Shaheed is the sales manager?
A He's general manager.
Q Do you supervise any of these people at Hillside?
A Actually, I buy cars, serve as

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consultant sometimes.

Q Do you ever tell any of these people what to do at Hillside?
A No Shaheed.
Q Shaheed is the person?
A Yes.
Q Does Shaheed supervise Sean?
A Yes.
Q Shaheed answers to you?
A To Ms. Ibrahim.
Q Anyone else aside from Ms. Ibrahim?
A Yes, sometimes he tell me too because I supervise.
Q Do you supervise?
A Yes.
Q At New York Motor Group, did you have anything to do with advertising the cars?
A Usually sales manager.
Q Sales manager --
A Uh-hum.
Q -- would make final decisions on the pricing?
A Yeah, I give them bill of sale and

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they see how much I own car.
Q You give them the bill of sale from the auction?
A Yes.
Q And did your sales manager have

the ability to change the price higher or lower from what you paid at the auction?
A Yes.
Q Did you tell the sales manager that he or she could change the price?
A I not telling him anything. He's sales manager, he's supposed to sell the car not below cost.
Q Did your sales manager work on a salary?
A Commission also.
Q Only commission?
A Commission and sales.
Q Commission and sales.
And did Julio Estrada have salary?
A Commission.
Q Only commission?
A Commission only.
Q Commission only?

♀

A Only commission, it's sales. You know, when he sell, you earn commission.
Q You work on commissions. Did you ever talk to anyone about how the cars were being advertised at New York Motor Group?
A He work in car dealer before and he knows the system. He knows how the advertising. That's reason they get salary for sales manager.

Q So Mohammed was the sales manager, right?
A In the end it was before him couple sales manager.
Q Was Danny a sales manager?
A Danny, yes.
Q And --
A Danny who?
Q I don't know. I'm asking you. Did you have a sales manager named Danny?
A I think so, yes. Danny what?
Q I don't know.
A Danny, Spanish guy.
Q Were you aware that cars were being advertised for lower than book value at

♀

New York Motor Group?
MR. SIMON: Note my objection to the form of the question.
A I don't know exactly, but it's -- you know, Internet always raise these days.
Q Say again?
A This time was Internet raise, like if you put in cheaper. When you put cheaper, it get customer.
Q But if you put the lower price, you get more customers in the store?
A You put lower price, you write disclosure, you have to cover with down

payment. It's amount of finance only, you know, something like that.

Q So were you aware that the Internet advertised prices were lower?

A Don't forget, I was next to Bargain Hunter, Toyota, Nissan, Volkswagen, Mazda, we always -- we see exactly what you do and we try to copy. We copy and paste.

Q When you say "next to," you mean these were other dealerships on the street?

A Next to me in the block right

♀

away, Bargain Hunter.

Q You were always trying to advertise prices lower than those other dealerships?

A No, we tried to copy them.

Q To copy them?

A Yes, but new car dealer is protected and they know very good what you're doing and we try to copy them exactly, you know. When they say -- I see car already in auction, he buying car for 15, how come already advertising for 13, example. Then I see -- I read disclosure for them, you know, they write -- have to this amount of finance, must be -- customer must have 700 score better, customer has to bring -- 1,999 is down payment.

Q So you would copy the disclosure

as well?

A Yes, it's a no brainer. You don't need to think about does he do something else, you know.

MR. LANE: Let's recess. We'll pick up again at 9:30.

(Time noted: 6:00 p.m.)

♀

A C K N O W L E D G E M E N T

STATE OF NEW YORK)
: ss
COUNTY OF)

I, MAMDOH ELTOUBY, hereby certify that I have read the transcript of my testimony taken under oath in my deposition of April 27, 2015; that the transcript is a true, complete and correct record of my testimony; and that the answers on the record as given by me are true and correct.

____
MAMDOH ELTOUBY

Signed and subscribed to
before me, this ____ day
of _______________, 20__.

____

Notary Public, State of New York

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I N D E X

WITNESS	PAGE
MAMDOH ELTOUBY	
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E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
1	12/4/12 D.A. fraud press release	161
2	9/12/14 demand letter	247
3	Internet ad	249
4	Theft deterrent product protection	274
5	Series of documents from Freire transaction	276

DOCUMENTS AND/OR INFORMATION REQUESTED

DESCRIPTION	PAGE
Name of insurance company	174
Copy of any insurance companies and any notice of claims and responses to notice of claims	174

(Continued...)

DOCUMENTS AND/OR INFORMATION REQUESTED

DESCRIPTION	PAGE
Copy of insurance and declaration page	185
Copy of whatever insurance applicable for dealerships	187
How much paid each attorney and how much is still owed	204
Address for Mr. Arefin	204
Proof of payment for anything regarding Mr. Tuhin	219

C E R T I F I C A T E

STATE OF NEW YORK)
) ss:
COUNTY OF BRONX)

I, KAREN VIGGIANO, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That MAMDOH ELTOUBY, the witness whose examination is hereinbefore set forth, was duly sworn by me and that this transcript of such examination is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of May 2015.

____
KAREN VIGGIANO

♀

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

--------------------------------------x

ANWAR ALKHATIB, Plaintiff,

-against-

NEW YORK MOTOR GROUP LLC, et al.,

Defendant(s).

Case No. 13-CV-02337 (ARR)(SMG)

ACTION #1

--------------------------------------x

SHAHADAT TUHIN, Plaintiff,

-against-

NEW YORK MOTOR GROUP LLC, et al.,

Defendant(s).

Case No. 13-CV-5643 (ARR)(SMG)

ACTION #2

--------------------------------------x

BORIS FREIRE and MIRIAM OSORIO,

Plaintiffs,

-against-

NEW YORK MOTOR GROUP LLC, et al.,

Defendant(s).

Case No. 13-CV-7291 (ARR)(SMG)

ACTION #3

--------------------------------------x

SIMON GABRYS, Plaintiff,

-against-

NEW YORK MOTOR GROUP LLC, et al.,

Defendant(s).

Case No. 13-CV-7290 (ARR)(SMG)

ACTION #4

--------------------------------------x

DATE: April 28, 2015

CONTINUED VIDEOTAPED EBT OF MAMDOH ELTOUBY

-------------------------------------x

ZHENGHUI DONG, Plaintiff, -against- NEW YORK MOTOR GROUP LLC, et al., Defendant(s).

Case No. 14-CV-2980 (ARR)(SMG)

ACTION #5

-------------------------------------x

NASRIN CHOWDHURY, Plaintiff, -against- NEW YORK MOTOR GROUP LLC, et al., Defendant(s).

Case No. 14-CV-2981 (ARR)(SMG)

ACTION #6

-------------------------------------x

CONTINUED VIDEOTAPED DEPOSITION of the Defendants NEW YORK MOTOR GROUP LLC and MAMDOH ELTOUBY, by MAMDOH ELTOUBY, pursuant to Order and Notice, held at the law offices of MFY LEGAL SERVICES, INC., 299 Broadway, 4th floor, New York, New York, on April 28, 2015, commencing at 10:05 A.M., before MEDEA EDER, a shorthand reporter and Notary Public within and for the State of New York.

REINIG REPORTING, INC.
192 Lexington Avenue
Suite 805
New York, New York 10016
(212) 684-7298

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(Continued...)

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-continued-

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BY: ROBERT J. BRENER, ESQ.

oOo

M A M D O H E L T O U B Y , having been again duly sworn by a Notary Public within and for the State of New York, stated his address as 178 Threepence Drive, Melville, New York 11747, continued to be examined and testified under oath as follows:

oOo

CONTINUED EXAMINATION BY MR. LANE:

Q. Good morning, Mr. Eltouby.
A. Good morning.
Q. Thanks for coming back. I know we went through this yesterday, but I just want to remind you again that in this deposition the court reporter is going to be taking down every word that I ask and that you answer. I'm going to go through a series of questions about the cases that I represent clients on -- and that is Alkhatib, Freire, Dong, Chowdhury and Gabrys -- versus the New York Motor Group, Planet Motor Cars, yourself, your daughter, and Julio Estrada, as well as the banks involved in these cases.
Please answer every question

Mamdoh Eltouby

clearly with a yes or a no. Don't shake your head, because the court reporter can't take down motions.

You testified yesterday, I know. But I don't remember if I asked you if, before yesterday, you had ever testified at a deposition before?

A. What do you mean?

Q. Have you ever sat at a deposition like this before --

A. Yes, I did.

Q. -- now?

Before yesterday, had you ever done that?

A. Yes, when my daughter, Nada --

MR. SIMON: No, no, not attend a deposition, but testified at a deposition.

A. Oh, testify? I think maybe a long time ago.

Q. Do you know what kind of case that was?

A. Yes. A customer was have defect in a car.

Mamdoh Eltouby

Q. And they had sued the dealership?
A. They sued Planet Auto Group.
Q. When was that?
A. That was seven years ago.
Q. So you understand that you are under oath when you're testifying?
A. Yes.
Q. Do you know what that means?
A. Yes.
Q. Do you understand that the failure to answer truthfully could result in court sanctions, there could be punishments for not answering honestly, and also testifying falsely could be perjury, which could be a criminal case. Do you understand?
A. Yes.
Q. Are you on any drugs or medication today that would affect --
A. No.
Q. -- your ability to answer questions?
A. No.
MR. LANE: Again, just let me finish every question before you answer.

THE WITNESS: Okay.

Q. So you're not on any drugs or medication that would affect your ability to understand and answer questions?

A. No.

Q. I would like to pick up in an area we were talking about yesterday, which was that we were trying to understand the relationship between Hillside Motors LLC and Planet Motor Cars. Can you just explain what that relationship is?

MR. SIMON: Note my objection to the form of the question. You said "We" -- you said "we" were trying. Who is "we"? Are you including him?

MR. LANE: You're kidding, right? Are you going to object to every little thing?

MR. SIMON: You said "we were trying to understand the relationship."

MR. LANE: Right, "we."

MR. SIMON: You mean, you are?

MR. LANE: I'm using the royal we, yes.

MR. SIMON: Okay, go on.

Q. Could you tell me what the relationship is between Hillside Motors and Planet Motor Cars?

A. No relationship.

Q. There's no relationship at all?

A. No relationship.

Q. When Planet Motor Cars closed, did the cars from Planet Motor Cars go to Hillside Motors for sale?

A. No.

Q. Some of the employees from Planet Motor Cars went to Hillside Motors to work at Hillside; correct?

A. Could be.

Q. I think yesterday you had said that Shawn, the finance manager, went from Planet to Hillside when Planet closed and Hillside opened?

A. Correct.

Q. Were there any other employees who worked at Planet that also moved to Hillside when Hillside opened?

A. No.

MR. LANE: I would like to have this marked. I don't know where we left off yesterday.

MR. SIMON: Five exhibits.

MR. LANE: Five? Okay, so let's start this as Plaintiff's 6.

(Document entitled "Vehicle Service Contract," referencing Gaganmeet Singh Bains, is marked as Plaintiff's Exhibit 6 for identification, as of this date.)

Q. I'm going to put Plaintiff's Exhibit 6 in front of you. Can you just take a look at all of the documents there. It's three documents, four pages.

MR. LANE: I'm sorry, are you talking to your client about an exhibit in front of him during the deposition?

MR. SIMON: Well, I mentioned that this is Exhibit 6.

MR. LANE: I think it's improper for you to do anything except allow your client to read the exhibit.

MR. SIMON: I'm looking at it,

too.

MR. LANE: That's fine, you can look at it, but I would really appreciate it if you would not describe the document to your client, which I would like the record to show you clearly were.

MR. SIMON: Yes, I was. Clearly, I was. I'm going to look at it alone, so I won't confer with him. These are multiple documents. Look at all of them. He's going to ask you questions about them.

Q. So do you recognize these documents?

A. Yes.

Q. The front page is a vehicle service contract?

A. Vehicle service contract, yes.

Q. And the second page is a Total Loss Protection passenger-vehicles registration form; is that correct?

A. Yes.

MR. SIMON: Keep your voice up so

she can hear you.

A. Yes.

Q. And the third and fourth pages are --

A. Service contract.

Q. -- the retail installment contract?

A. Mm-hmm. Yes.

Q. Let's start with the last page, the retail installment sales contract. Do you see who the buyer's name is there?

A. Yes.

Q. Gaganmeet Singh Bains?

A. Yes.

Q. Do you recognize that name on the third page there?

A. This is here.

Q. Do you recognize the name?

A. I don't know him personally.

Q. But do you recognize that name, Gaganmeet Bains?

A. I do not recognize every customer.

Q. I'm just wondering if you recognize that name.

Mamdoh Eltouby

A. No.

Q. It's not a trick question. Do you recognize the name?

A. No.

Q. No? Okay. Who is listed as the seller on the retail installment contract?

A. Hillside Motors.

Q. At 161-10 Hillside Avenue?

A. Correct.

Q. And what is the date of this contract? It's on the bottom of the second page of it.

A. 10/26/13.

Q. October 26, 2013?

A. Yes.

Q. And also someone from Hillside Motors is signing as the representative?

A. Correct.

Q. Do you recognize that signature?

A. Not really.

Q. You don't know?

A. I don't know who it is.

Q. Is that Shawn's signature?

A. I don't know.

Q. But clearly somebody has signed as the F&I representative for Hillside Motors?

A. Yes.

Q. Okay. Look at the second page.

MR. SIMON: Of the exhibit or of the contract?

MR. LANE: Of the exhibit.

Q. The second page of the exhibit.

A. This one?

Q. Yes. Is this also dated 10/26/2013?

A. Correct.

Q. Who is listed as the dealer?

A. Hillside Motors.

Q. And also Gaganmeet Singh Bains is listed as the seller -- as the buyer; correct?

A. Mm-hmm.

Q. Customer or borrower, excuse me. Gaganmeet Singh Bains is listed as the customer or borrower?

A. Mm-hmm.

Q. This first page of the exhibit, you identified this as a vehicle service contract; correct?

A. Yes.
Q. Who is listed as the customer?
A. Gaganmeet Singh.
Q. Gaganmeet Singh Bains is the customer listed here?
A. Mm-hmm.
Q. Who is listed as the dealer on this contract?
A. "Planet Motor Cars" is signed here, but I don't know why you put here.
Q. I just wanted you to answer the question: Who is listed as the dealer?
A. You read it already on that paper. It's Planet Motor Cars.
Q. Thank you. And then who is listed as the lienholder?
A. Supposed to be the bank. This is Hillside.
Q. Is that Hillside Motors LLC as the lienholder?
A. Yes, this is error.
Q. Now what is the "vehicle in service date" on this contract?
A. October 26, 2013.

Mamdoh Eltouby

Q. And the customer signature and the dealer signature at the bottom; what is the date next to that?

A. 10/26/13.

Q. Do you know why Hillside Motors was listing Manhattan Planet Motor Cars as the dealer on a vehicle service contract in October of 2013?

A. It's 100 percent error.

Q. One hundred percent error?

A. Yes.

Q. Why do you know it's an error?

A. Because this supposed to be here. The lien is the bank.

Q. Okay.

A. It's not Hillside. The bank is the lien, because they borrowed the money from the bank, it's not borrowed the money from Hillside. It's total error here. Because the two other document it say clearly, clearly they say Hillside Motor. And the contract say Hillside Motor. It's not anything to say here, Planet Motor Car.

Q. Right.

Mamdoh Eltouby

A. Except that this could be, this is him making that error here and write "Planet Motor Car." I don't know why.

Q. Who is he?

A. I'm sure the finance guy.

Q. Why would the finance guy write "Planet Motor Cars" on documents for Hillside Motors?

A. Mistake. Error. Mistake. Human mistake. Because there's no Planet Motor Cars at all -- at all -- here.

Q. When did Planet Motor Cars stop doing business?

A. I think in 2013.

Q. And when did --

A. July.

Q. When did Hillside Motors start doing business?

A. I don't know. It's not my company.

Q. Yes, but your longtime partner is the owner.

A. I'm not partner and not owner. Just working over there buying cars.

Mamdoh Eltouby

Q. The woman you live with and that you have two children with is the owner of Hillside Motors; correct?

A. Probably you read it already. You read it already.

Q. You don't recall when she opened the dealership?

A. Excuse me?

Q. You don't remember when she opened the dealership?

A. No.

Q. In your experience, who fills out the vehicle service contracts at the dealership?

A. The finance manager.

Q. How does the finance manager fill out the service contract?

A. Probably computer.

Q. Probably computer? You don't know?

A. I don't know how he fill it. He write it, in a computer he write it. Would be the same mistake. Everybody make mistake.

Q. Is Shawn the only finance manager

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at Hillside Motors?

A. No. Somebody named Cesar.

Q. Cesar is currently a finance manager?

A. No, he work for both.

Q. Cesar and Shawn --

A. Used to be working.

Q. Is Cesar still working there?

A. I don't know anything about Hillside Motor. Why you asking me the question? I'm telling you this is not my company. I don't know. I not even in the operation, I just only buying cars for this company, you know.

Q. I really want to get this straight. You said yesterday -- and correct me if I'm wrong -- yesterday you said that when Planet Motor Cars closed, you told Shadia that Shawn was a good finance guy and you encouraged Shadia to hire Shawn at Hillside; is that correct?

A. I don't know if you try to put, you know, words in my mouth.

Q. That's why I'm asking you to tell

me if it's correct.

A. I told you a couple of times. It's not my company.

Q. That's not the question. That's not the question. The question was: Did you refer Shawn to Shadia?

A. Refer is not even -- I get people from outside to work. Because I know so many people already in the industry of car business. I'm 25 years in the business and I know so many people. And I told you I consult people. I'm a New York independent dealer association. That's me. And I can consult any dealership in New York.

Q. Great. Can you answer my question? Did you suggest to Shadia that Shawn was a good finance guy?

A. Probably, yes.

Q. After you told Shadia that, did she hire Shawn to work at Hillside Motors?

A. You have to ask her this.

Q. Well, we certainly will.

A. You have to get deposition and ask her. I don't like to answer anything for

Shadia.

Q. Fine. I'm not asking you to tell me what Shadia said. I'm asking you, in your mind, in your experience, did you notice as a consultant at Hillside -- or in whatever role you have at Hillside -- that after you spoke to Shadia about Shawn she hired Shawn to work at Hillside?

A. Probably, yes, because he's working there now.

Q. Because he's working there now, okay. Now, again, what was your role at Hillside?

A. Excuse me?

Q. What is your role at Hillside? What is the title that you have?

A. I buying cars and sometimes consultant.

Q. Consultant?

A. Yes.

MR. LANE: I would like to have this exhibit marked as Plaintiff's Exhibit 7.

(Multipage document entitled

"Consent Order," referencing Gaganmeet Singh Bains, is marked as Plaintiff's Exhibit 7 for identification, as of this date.)

MR. LANE: Take a look at Exhibit 7. While Mr. Eltouby is looking at it, I will tell you, Richard, that the date is June 11, 2014.

THE WITNESS: Okay.

Q. Do you recognize this document; Exhibit 7?

A. Mm-hmm.

Q. You do?

A. Yes.

Q. What is this?

A. This is the complaint from -- from the customer. He just only, he wants money back.

Q. From which customer? Can you say his name, please?

A. His name is Gaganmeet Singh.

Q. Gaganmeet Singh Bains?

A. Bains, yes.

Q. Is that the same customer who was

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listed on Exhibit 6 that we were looking at?

A. Yes.

Q. Is that right?

A. Mm-hmm.

Q. And he filed a complaint with the Department of Consumer Affairs; correct?

A. Yes.

Q. This is a consent order with the Department of Consumer Affairs and Mr. Bains; is that correct?

A. Consumer Affairs and Mr. Bains?

Q. Correct. It's a settlement agreement with Consumer Affairs and Mr. Bains?

A. Consumer, this is, I recommended this here. Mr. Simon -- Richard Simon -- he went to Consumer Affairs and he settled this.

Q. He settled Mr. Bains's complaint at Consumer Affairs?

A. Yes. He's here. Do you remember?

Q. Did you sign this agreement with Consumer Affairs?

A. Yes, he brought it to me and I signed it for him.

Q. Is that your signature at the

bottom of page four of this consent order?

A. Yes.

Q. Are you listed there as the president?

A. No.

Q. What does it say there above your signature? Can you read what it says just above your signature? Read the entire --

A. No. This is, sometimes this is new already, the settlement was anything that you have with any company and you write it, president. But it's not even president. But Mr. Simon, he was -- he is the one, the lawyer. He will settle everything.

Q. Did Mr. Simon represent you in this action at the Department of Consumer Affairs?

A. He represent the company, Hillside Motors.

Q. Let's be clear. This is a complaint. There was a complaint against Hillside Motors LLC?

A. Yes.

Q. On the first page of this consent

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order, Hillside Motors LLC is listed as the respondent?

A. Respondent, yes.

Q. Hillside Motors LLC is the respondent?

A. Yes.

Q. Okay. And did you hire Mr. Simon to represent Hillside Motors?

A. Yes.

Q. You hired Mr. Simon to represent Hillside Motors?

A. No, I directed the company, and I say this is Mr. Simon. He can do this. And Shadia Ibrahim, the owner of the company, she hired him.

Q. Where were you when you signed this document?

A. I think I was with him in the Consumer Affairs.

Q. At the Department of Consumer Affairs?

A. Yes.

Q. Why did you go to the Department of Consumer Affairs?

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A. I handle the company. I work in consulting for the company. We avoid any problem in the companies. Yes, I consultant in the company.

Q. So your title is consultant?

A. Consultant, yes.

Q. Then why did you sign this as president?

A. I was negligent. I don't see this in particular says "president" or the "owner" or something.

Q. Is it a false statement that you are the president of Hillside Motors? Is that a false statement?

A. It's not false statement. This is --

Q. So you are the president of Hillside Motors?

A. The customer --

Q. Were you the president of Hillside Motors?

A. No.

Q. So it's a false statement to say that you are the president of Hillside Motors?

A. The customer --

Q. I'm not asking about Mr. Bains in any way, shape or form.

MR. LANE: Please stop interrupting my deposition.

MR. SIMON: She asked me to say that.

MR. LANE: She didn't ask you a thing.

MR. SIMON: She said you're both talking at the same time. She said it. Get angry at her.

MR. LANE: Stop interrupting my deposition.

MR. SIMON: I refuse to abide by what you're telling me. She said she can't take both of you down, so I was telling him wait until the question is finished. That's not interrupting; that's trying to assist. I tried to assist, and you don't appreciate one iota my grandiose assistance.

MR. LANE: I don't appreciate your assistance and I don't appreciate your

childish outbursts.
MR. SIMON: You're not god here. Ask him questions and he'll answer.
Wait until he finishes the question before you answer, okay?
MR. LANE: I want to be really clear. If you continue this like you were yesterday, we are going to get Judge Gold on the phone.
MR. SIMON: Get him on the phone if you want. Give me a break. Is that a threat?
MR. LANE: I'm just making it clear that we have limited time. People have said that they have to leave by 3:00.
MR. SIMON: You're uptight on court. Nobody cares and nobody listens. And that was from Cool Hand Luke, the movie.
Q. I'm not asking about Mr. Bains in any way. I am asking you: Was it a false statement, is it false to say that you --
A. What do you mean, false?

MR. LANE: Strike that.

Q. Is it untrue to say that you are the president of Hillside Motors?

MR. SIMON: Asked and answered. I object.

Q. You can answer the question: Is it a false statement that you are the president of Hillside Motors?

A. Fault?

Q. Yes.

A. I'm not faulting anything.

Q. "False."

A. I'm not faulting anything.

Q. Is it untrue that you are the president of Hillside Motors?

A. This is settlement only between the --

Q. That's not my question. Would you please answer the question?

A. I'm not president of Hillside Motors.

Q. You are not the president of Hillside Motors?

A. I'm not president of Hillside.

Q. Why did you sign a document that identifies you as the president of Hillside Motors?

A. Behalf of the company, behalf of the company.

Q. This document identifies you as the president of Hillside Motors.

A. Behalf of the company.

Q. Is it correct that this document identifies you as president of Hillside Motors?

A. I don't know what he's try to find out.

MR. SIMON: This is not a trial. This is discovery.

Q. Mr. Eltouby --

MR. SIMON: I just want to be heard here.

MR. LANE: No.

MR. SIMON: You have the document and his testimony. We are not trying this case now. Who are you trying to impress? This is not a trial and there's no jurors here.

MR. LANE: I'm trying to get the

answer to the question.

MR. SIMON: He answered it. He signed it.

MR. LANE: If you don't allow me to continue this line of questioning, we are just going to have to call Judge Gold. Would you please just relax and let him answer these questions?

MR. SIMON: I'm refusing to let him answer another question about this document. Let's draw a line in the sand. You've got everything you need about the document. He says he's not the president, yet he signed. What else? This is discovery.

MR. LANE: Will you stipulate that he signed this as the president of Hillside Motors?

MR. SIMON: He signed it. Whoever prepared that document said he was the president. Ask him if he prepared the document. He was given a document to sign and he signed it. What else do you want him to say?

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Q. Mr. Eltouby, who prepared this document?

A. I don't know. It's a Consumer Affair paper. Is this not Consumer Affair?

MR. SIMON: Just answer the question.

Q. Do you know who prepared this document?

A. Consumer Affair, for settlement.

Q. Do you know if Mr. Simon reviewed this document before he gave it to you?

A. Yes.

Q. He did review it before he gave it to you?

A. He was with me.

Q. Did you read this document before you signed it?

A. Not really. I have my lawyer and I trust my lawyer.

Q. Did Mr. Simon tell you to sign at that line?

A. This is -- yes, tell me we got to be settle with the company and they send a check already. And this is -- we have this here is part of the settlement.

Q. Did Mr. Simon direct you to sign?

A. They have in the company.

Q. But he told you to sign the document? Mr. Simon told you to sign the document?

A. He is the lawyer from the case.

Q. Would you just answer the question yes or no?

A. Can you ask him? He's next to me. Just ask.

Q. I can't ask him at this deposition, but we may have to have another deposition where we call Mr. Simon as a witness. It's quite possible that we will have to do that.

MR. SIMON: Ask your question.

Q. For the moment, could you answer this question: Did Mr. Simon direct you to sign this document?

A. Yes.

Q. Thank you. We may have gone through this yesterday. Can you just remind me who are the lenders that did business with

Planet Motor Cars? Who are the lenders that did business with Planet Motor Cars in order to finance customers' car purchases?

A. M&T Bank. Santander. And what else -- uh, Capital One.

Q. Any others?

A. Wisdom Financial.

Q. Who are the lenders that had dealership agreements with Hillside Motors in order to finance customers' car purchases at Hillside Motors?

A. I don't know.

Q. You have no idea?

A. No idea.

Q. Yesterday, if you remember, Mr. Keshavarz had shown you documents from Mr. Tuhin's transaction. And there were multiple buyer's orders or bills of sale. Do you remember that?

A. Yes.

Q. You testified that there's really no difference between a buyer's order and a bill of sale?

A. It's a buyer's order when the

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customer come into the dealership, dealing with the salesman. And the bill of sale is when the final buying the car. And they print it and sign it by finance guy.

Q. One of the things that Mr. Keshavarz was asking you about was the fact that in Mr. Tuhin's case, the buyer's order, bill of sale, they each had the same price for the car, but one of them itemized aftermarket product and the other one did not itemize anything.

A. Yes.

Q. Let me be clear. Let's get the document in front of us. I'm going to put Exhibits B and D from the deposition of Shahadat Tuhin in front of you. You looked at these yesterday with Mr. Keshavarz; right?

A. Correct.

Q. This is New York Motor Group buyer's orders or bills of sale?

A. Correct.

Q. This is Exhibit B. Exhibit B shows a selling price of $12,000 and then shows a service contract for $3,000 and then itemizes

some aftermarket --
A. "After-sale."
Q. After-sale products.
A. Mm-hmm.
Q. You call them after-sale products?
A. Call them after-sale products in the business.
Q. And Exhibit D does not itemize any after-sale product, except it does itemize a service contract for $3,000. But it has an inflated selling price of $22,795; correct?
A. Correct.
Q. Correct me if I'm wrong, but I believe what you had told Mr. Keshavarz yesterday is as long as the price is the same at the bottom, you don't think that there's any problem with these documents?
A. Correct.
Q. So are you aware that some of the sales at New York Motor Group involved multiple bills of sale that had different prices on them?
A. No.
Q. You're not aware of that?

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A. No.

Q. Do you think that that ever occurred?

A. What?

Q. Do you think it ever occurred that there were sales at your dealership that used different bills of sale with different prices on them?

A. I have not knowledge of this.

Q. You don't have any knowledge of that?

A. I have no clue about this. I know very good this, the bill of sale, is coming from New York Motor Group only.

MR. LANE: These are double-sided. Let me submit this package. We will have to put a different label on it. Let's have this marked as Plaintiff's Exhibit 8.

(Document with heading of New York Motor Group, referencing Anwar Alkhatib as buyer, dated 12/18/12, is marked as Plaintiff's Exhibit 8 for identification, as of this date.)

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Q. Could you look at these two pages marked as Plaintiff's Exhibit 8?

A. Yes.

Q. Are those bills of sale from New York Motor Group?

A. Yes. Not this one. This is buyer order and this is bill of sale.

Q. What is the difference between a buyer's order and bill of sale?

A. I explained before. I say the customer --

MR. GROSSMAN: Counsel, I'm sorry to interrupt but he's pointing to two documents. I think the record needs to reflect that.

MR. LANE: Sure, we'll make it clear.

Q. What is the difference between the buyer's order and the bill of sale?

A. I explained to you before. When the customer come into the dealership, he meet first of all with the salesman. Customer he want to pay whatever he want to pay. He want to, we say okay. This is not final; this is

the customer, he wants. He says here's the price for the car -- the customer he want to pay this, you know.
Q. Okay.
A. And then we take from him the deposit, like $200 or something, and here he go to the F&I, the financing, which is they finalize everything with him.
Q. So let me ask you: Are these two forms identical? And I'm not talking about the --
A. Yes, identical.
Q. -- information that's added, but the forms are identical?
A. Exactly. It's identical.
Q. But it is your policy or it was your policy at New York Motor Group to refer to this form as a "buyer's order" --
A. Buyer's order, yes.
Q. -- when the customer indicates their interest in buying the car --
A. Correct, yes.
Q. -- and then to complete a different one called a "bill of sale" --

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A. Bill of sale. Finalize every number.

Q. -- after they have met with the F&I representative?

A. Yes, finalize with every number.

Q. Okay. So the one that you're calling a "buyer's order" -- in Exhibit 8 -- shows what as the selling price? What's the selling price showing on the buyer's order?

A. Sale price is $17,500, but it's obstructed -- or what's calling it?

Q. The lines down?

A. Yes, goes down. That's the customer, he wants to pay $13,000. He wants, but that's not finalized. He go to the F&I finance manager and the finance manager sit down with him and they sell him also the aftermarket, after-sale, to pay in the same time. It's like negotiating.

Q. I apologize if this was asked yesterday, but I just want to make sure I'm clear. This document that you're identifying as the buyer's order --

A. Buyer's order, which is between

the salesman and the customer.

Q. So this is not a binding contract between the customer --

A. No, no.

Q. -- and the dealership?

A. No, no.

Q. It is not a binding contract between the customer --

A. No. Because the customer, if he go inside and he sit down with the salesman or the F&I and finalize, he can say, "No, no, no, I don't want this. Give me my money back." That's it.

MR. GROSSMAN: The one with the stamp on it is the one that he's saying is not a binding contract?

MR. LANE: It is not a binding contract.

MR. GROSSMAN: Okay.

MR. LANE: We will call that "page one" of Exhibit 8.

MR. GROSSMAN: The one that has the stamp on it.

MR. LANE: Yes. It has been

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identified as the buyer's order.

Q. Exhibit 8 has been identified as not a binding contract between the dealership and customer?

A. No, the customer, he can --

Q. The customer can back out of this contact?

A. He can say, "I don't want it, no," after he sees the number, the real number.

Q. So after the customer sees the cost of the loan and --

A. Yes.

Q. -- the cost of add-ons or after-sale products?

A. Yes.

Q. If he doesn't want the transaction he can back out?

A. Exactly.

Q. And get a full refund?

A. Correct. Look at this here. He paid $200. You think we going to hold him to $200?

Q. Okay. So I believe that Mr. Keshavarz reviewed this with you yesterday,

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but at the bottom of this contract -- at the bottom of either contract, either the bill of sale or the buyer's order, doesn't it say that there will be a forfeiture of 35 percent of the sale price of the vehicle?

A. This is standard bill of sale, the standard bill of sale, with all this writing. This you read here, all this here, you have to read this, all this stuff here. This is a standard bill of sale.

Q. Was it your policy to ever enforce the 35-percent forfeiture that is indicated on this?

A. No.

Q. You never intended that to be enforced?

A. No.

Q. Did you know that your employees would regularly try to enforce the 35-percent forfeiture?

A. I don't think so. It could be, but this I don't think so.

Q. It could be, but you don't think so?

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A. Could be. Not in front of me, never in front of me.

Q. But why didn't you know whether or not your employees were trying to enforce a 35-percent forfeiture?

A. I don't -- I don't know if this is my -- my employees tried to force anything, or tried to enforce. I don't know this.

Q. You don't know?

A. I don't know. You're not allowed. You're not allowed.

Q. Did you ever tell your employees, "Even though the bill of sale says that there's a 35-percent forfeiture for a customer backing out after signing the bill of sale, never enforce the 35-percent forfeiture"? Did you ever tell your employees that?

A. Yes.

Q. You did?

A. Yes, I did.

Q. When did you tell your employees that?

A. From the beginning when they starting, you know, to work with us, you know.

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I say I don't want any problems. I want a smooth and clean business. I don't want anybody to be complaining about us.

Q. But how did you train them on refunds for customers who wanted to discontinue a transaction?

A. I not train them, because they was trained already. I don't bring in people this first time they working in a car business.

Q. So you didn't train them?

A. I take people from used to be working for the car business.

Q. So you didn't train them when they started working at New York Motor Group?

A. No. I not train them, but this, I say I don't want any problem with any customer. I don't want a problem. We give him his money back.

Q. So do you have a written set of policies for the people who work at your dealership?

A. No.

Q. You do not have written policies?

A. No.

Mamdoh Eltouby

Q. Did you ever tell Alex that he was never to enforce a 35-percent forfeiture?

A. Sure, I tell him.

Q. You told Alex that?

A. Mm-hmm.

Q. Did you ever tell Julio Estrada that he should never enforce the 35-percent forfeiture?

A. Yes, I tell him.

Q. When did you tell that to Julio Estrada?

A. I tell him this because he -- I hear because he used to do. That's out of balance. I tell him not by me. I don't want anything or any -- anything from that. Forget about anything what you did Auto Palace here. I don't want any problem. I don't want any customer get complaint.

Q. When did you hear that he had done that at Auto Palace?

A. This is already in the press release from the DA.

Q. So when you read the press release --

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A. Yes.

Q. -- you were aware that Julio Estrada would try to enforce a forfeiture on customers when they tried to terminate a transaction?

A. I hear, yes. I heard this.

Q. Where did you hear that?

A. I heard this from Angel.

Q. So you knew this before you hired Julio Estrada?

A. Yes. But I tell them is not by me, he cannot do this.

Q. Did you tell that to Dewan when you hired him?

A. Yes.

Q. Did you tell that to Mohamed, your sales manager --

A. Yes.

Q. -- before he started working at New York Motor Group?

A. Yes.

Q. Did you ever explain that to your daughter, Nada, before she started working at New York Motor Group?

A. Yes.

Q. Did you have a sales representative named Kevin at New York Motor Group?

A. Kevin?

Q. He spoke Chinese?

A. Oh, yes.

Q. Was his name Kevin?

A. Yes.

Q. Did you ever tell Kevin that they were never to enforce --

A. Yes.

Q. -- a 35-percent forfeiture?

A. Yes.

Q. Do you remember when you told this to Kevin?

A. When he come and work for us.

Q. When did Kevin start working for you?

A. Sometime in 2013, but I don't know exactly which month.

Q. Okay. Do you know Kevin's full name?

A. Not really.

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Q. Do you have contact information for Kevin?

A. Used to. You know, he's a Chinese salesman famous in the Northern Boulevard. I can go up and down and find out where he work and I can get that for you.

Q. All right, that would be wonderful. I would like that.

A. Yes.

*RQ MR. LANE: We're going to leave a blank in the transcript. I will furnish a copy of the transcript to Mr. Eltouby's counsel, and Mr. Eltouby will provide us with the full name and all contact information for Kevin, the salesperson who spoke Chinese at the dealership.

INSERT: ____

INSERT: ____

Q. It may have been asked yesterday if you had the contact information for Dewan. I think you gave us a phone number for Dewan.

A. I gave the phone number and first name and last name.

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Q. Last name, okay. And we know where to find Julio Estrada.

Do you have contact information for Angel Santiago?

A. Yes.

Q. Do you have it with you?

A. Uh.

*RQ MR. LANE: We will leave a blank in the transcript for Angel Santiago's contact information, and you will fill that in as well.

THE WITNESS: Yes.

INSERT: ____

INSERT: ____

*RQ MR. LANE: I think we already did this with Mohamed. You will try to find us contact information for Mohamed as well.

INSERT: ____

INSERT: ____

THE WITNESS: Okay.

Q. Did you have employee files?

A. Yes.

Q. Where are those files?

A. I put in storage.

Q. In storage?

A. Yes.

Q. We asked for those files, but they were never produced. Did anybody tell you that we asked for those files?

A. No.

*RQ MR. LANE: I'm going to call for production of all files on all employees working at New York Motor Group between 2010 and the present. I will put that in writing.

MR. SIMON: I note for the record. You mean the personnel files?

MR. LANE: I want any piece of paper the dealership has on any person who worked for them, whether it's a personnel file, contact information, Social Security numbers, IRS papers, performance reviews, proof of payment to these people. I will document exactly what I'm looking for and I will put it in writing. But I'm calling for production of all files related to every employee who worked at New York Motor Group from 2010 to the present.

MR. SIMON: I'm just going to state that on behalf of New York Motor Group, regarding some of that information in these files there may be a privacy concern as to those particular employees. We may have to try to locate them or put them on notice of this request to give them an opportunity to file some objection.

MR. LANE: Sure.

MR. SIMON: Especially if there's Social Security numbers and personal information.

MR. LANE: We can probably talk about the extent of that. I don't want Mr. Eltouby doing anything that is going to be in violation of privacy concerns, so why don't you put it in writing and then we can talk about the extent of it.

MR. SIMON: As to their name and last-known address, you're entitled to that.

MR. LANE: Okay. I'm wondering, because we had testimony from Mr. Eltouby about the way he hired people and paid people, I think that we may be entitled to some evidence of the manner in which he employed people and paid people -- whether it's W-2s or not, and whether the W-2s have redacted confidential information or not.

Again, I'll put this in writing, we can talk about it, and if it's going to require a ruling from the Court, then we'll have to visit the Court.

MR. SIMON: Just note my objection, when you say that "he" paid people -- I understand there's an understanding that they were employees of the entity and were paid by the entity, not by an individual. Can you just put it in writing and we will try to give you as much information as we can.

MR. LANE: Let's clarify that.

Q. How did you pay the people who

worked at New York Motor Group?
MR. SIMON: Note my objection. Do you mean they were paid by New York Motor Group?
Q. If you understand the question, please answer it. How did you pay people who worked at New York Motor Group?
A. I think with checks, W-2.
Q. Who wrote the checks?
A. Accountant.
Q. Accountant?
A. Mm-hmm.
Q. Who was your accountant?
A. Mr. Ahmed Youssef.
Q. Ahmed Youssef?
A. Yes.
Q. A-H-M-E-D?
A. Yes.
Q. Y-U?
A. Y-O-U-S-S-E-F.
Q. Do you have Mr. Youssef's contact information?
A. Yes.
Q. Do you know it?

Mamdoh Eltouby

A. Not with me right now.

*RQ MR. LANE: We will leave a blank in the transcript for Mr. Youssef's contact information. I will serve the request on your counsel and you will provide us with that information.

INSERT: ____

INSERT: ____

Q. Did Mr. Youssef work permanently at New York Motor Group?

A. Not permanently. He's an accountant.

Q. Did he have other clients besides New York Motor Group?

A. Sure.

Q. Would he come to New York Motor Group to do accounting?

A. He come sometimes.

Q. Would he come to work with your books at New York Motor Group?

A. Yes.

Q. And he would write the checks for payment?

A. No. He sent me the checks.

Mamdoh Eltouby

Q. He sent you the checks?
A. Yes.
Q. Who signed the checks?
A. I signed the checks.
Q. Did Nada ever sign the paychecks?
A. No.
Q. And you would issue W-2s?
A. Yes. Payroll.
Q. To everyone?
A. We have a payroll company.
Q. You had a payroll company?
A. Correct.
Q. Who is your payroll company?
A. I don't know. He had it. Was a payroll company from California. I don't know what's the name exactly.

*RQ MR. LANE: We're going to leave a blank in the transcript for the name and contact information for the payroll company that processed payroll for New York Motor Group, and if you can provide that to us, you will.

INSERT: ______________________________

INSERT: ______________________________

MR. LANE: If not, will you authorize Mr. Youssef to tell us the name of the payroll company?

THE WITNESS: I would.

MR. LANE: Okay. So we will get it from you or we will get it through Mr. Youssef.

Q. And you did issue W-2s?

A. Yes.

Q. To every single employee?

A. Not to every, because some of them they coming and going, you know, stay not too long and leave. They don't like the atmosphere, or they don't like that it's far for them, or they don't like the payment or something. You know, they leave.

Q. And you would not give them a W-2, even if you paid them?

A. Stay only, you know, a week or something.

Q. No W-2?

A. We don't do. This is always. I tell Mr. Keshavarz yesterday, I tell him exactly that this is common. They test us and we test them. If it's good, they stay. If not good, they leave.

Q. Would you pay people for that first week?

A. You know, something, couple hundred dollars.

Q. I believe you testified yesterday that Julio Estrada did not get a W-2?

A. 1099.

Q. He got a 1099 to his entity -- not to him?

A. Yes.

Q. Were there other people who worked at New York Motor Group who got 1099s to an entity and not to them personally?

A. No.

Q. Everyone else was a W-2 employee?

A. Yes.

Q. Why did you not make Julio Estrada a W-2 employee?

A. Because he is, you know, isn't permanent. I'm told he is going to so many company and close, and sometimes he not coming. He don't want to be tied to the business. He go outside also and -- and closing deals for another dealership.

Q. So it was your understanding that he would not work exclusively for New York Motor Group?

A. No.

Q. Are you aware of what other companies he was working for at that time?

A. He don't tell me. He not tell me, but I know very good he go up and down the street to other customers, different companies. Last company he used to work for I think is Plaza Honda in Brooklyn. He get arrested fraud there, he get arrested also and, you know, fraud, and this, and whatever he do.

Q. When did you know that? When did you find out --

A. I find out from the DA.

Q. -- that he had been arrested; when was that?

A. This was after he left my business, maybe a couple of months.

Q. In 2014?

A. In 2014.

Q. Another area that we touched on yesterday -- we only had about an hour for me to start my deposition yesterday, so we started to talk about this issue where it looked to me like people were purchasing cars at New York Motor Group but then were receiving documents that listed Planet Motor Cars as the seller. I showed you --

A. Yes, this is what I explained to Ahmad Keshavarz. You know, this is the customer, he is getting approved, approved to Santander Consumer USA.

Q. I showed you a couple of exhibits, Exhibits 4 and 5, and one exhibit was with the documents from Anwar Alkhatib's transaction and the other were documents from Boris Freire's transactions. We noticed on Exhibit 4 that Mr. Alkhatib -- and, again, Exhibits 4 and 5 came from documents that were given to me by Bruce Minsky when I requested the transaction documents in your file folders related to all of the plaintiffs.

In Mr. Freire's case, we received a theft deterrent product protection registration form. This is marked as Exhibit 4; correct?

A. I answered the same question yesterday.

Q. Well, I know.

A. You want me to answer again?

Q. I'm not going to ask you a bunch of questions about this. I just want to make sure that we're on the same page.

A. I answered this question 100 percent yesterday.

Q. Remind me why you think it is that Exhibit 4 has one document that lists New York Motor Group as the dealer, and then it has a second document -- which is the AUL service contract -- which lists Planet Motor Cars as the dealer?

A. I explained this. This is a customer of New York Motor Group and he cannot get approved for that two lender what we have.

Q. Okay.

A. And he approve already in Santander -- instead, we lose the customer. This is, he transferred everything to New York

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Motor Group and we get the customer is approved from New York Motor Group through Santander, and the customer sign and acknowledge already this is he know very good that he's not approved from this identity and approved from other identity. And he go off and he sign the contract and he acknowledge. But sometimes this is -- was a paper trail, you know, this is the making, okay, the confusing, okay, the issue from here. Example, warranty, and then he say, okay, you know what, send him to New York -- to Planet Motor Car. And Planet Motor Car disclosing everything according, you know.

Q. Okay. And so if somebody needed a loan from Santander because they were a subprime borrower --

A. Yes.

Q. -- Planet Motor Car would have to do that deal?

A. Yes. Planet Motor Car have only Santander.

Q. But why was Jake Torres or Julio Estrada handling that deal at New York Motor Group?

Mamdoh Eltouby

A. He not in New York Motor Group?
Q. I'm sorry?
A. In New York Motor Group?
Q. In New York Motor Group.
A. Yes, he, because he know the banking, he know the banking business.
Q. Again, Was Julio Estrada authorized to sign documents on behalf of Planet Motor Cars?
A. Not really. He not sign anything.
Q. I know that we went through --
A. I don't know if he sign.
Q. We went through documents yesterday that showed --
A. This could be also this is, you know, he's showing this is, he is F&I. I telling you anybody also F&I you know sign anything, this irrelevant.
Q. Again, when we looked at Exhibit 4, we saw that you testified that Julio Estrada signed this document --
A. Yes.
Q. -- on behalf of New York Motor Group?

A. Yes.

Q. And we also looked at an exhibit. We also looked at -- I guess we didn't -- let me show you another document.

MR. LANE: Let's mark this as Plaintiff's Exhibit 9.

(Document is marked as Plaintiff's Exhibit 9 for identification, as of this date.)

oOo

(A discussion is held off the record.)

oOo

MR. SIMON: Can I see Exhibit 9?

MR. LANE: This is Exhibit 9. I'm putting Exhibit 9 in front of your counsel.

MR. SIMON: I thought he saw it yesterday.

MR. LANE: He saw -- yesterday, I showed him Exhibit 5.

Q. The first page of Exhibit 5 showed a New York Motor Group buyer's order; correct?

A. Correct.

Q. And the second page of Exhibit 5 is the first page of the retail installment contract for Boris Freire that I received in discovery production from Bruce Minsky.

I'm now putting Exhibit 9 in front of you, which is the complete first page of the retail installment contract for Boris Freire that Mr. Freire had a copy of.

A. It's the same thing.

Q. It is the same document. I'm showing you now the copy that I had from Mr. Freire. This is the a copy of Mr. Freire's retail installment contract that we produced.

A. It's the same.

Q. Okay. Now look at the bottom of the retail installment contract. Whose signature is there?

A. I did answer this yesterday.

Q. Could you just answer again? I'm sorry if you did. Just remind me.

A. This is Julio Estrada.

Q. Julio Estrada signed --

A. Yes.

Q. -- Mr. Freire's retail installment

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sales contract?

A. Correct.

Q. Okay. And who is listed as the seller on Mr. Freire's --

A. Planet Motor Cars.

Q. Okay. And I just want to be clear, because yesterday you said Mr. Estrada was not authorized to sign documents on behalf of Planet Motor Cars.

A. This is finance, you know.

Q. I understand it's finance.

A. It's irrelevant as long as the customer, he signed the contract.

Q. So it's irrelevant?

A. Irrelevant which finance guy --

Q. It's irrelevant which --

A. -- signed it.

Q. -- finance guy signed it?

A. He signed the contract.

Q. So you're saying it is irrelevant?

A. Irrelevant. Any F&I finance. As long as the customer he sign in front of him, he is -- he can sign, you know.

Q. So Julio Estrada could sign

documents --

A. If --

Q. -- that listed Planet Motor Cars as the seller?

A. If I'm there, example, and you know, and I see the customer when he sign, I can sign the F&I too.

Q. Okay, so anybody could sign. What if I walked into the dealership and I happened to witness this; could I sign as the F&I guy, would it matter?

A. You?

Q. Yes.

A. You're not hired.

Q. Okay. So did you authorize Julio Estrada to sign documents that listed Planet Motor Cars as the seller?

A. I say it's irrelevant, again.

Q. It's irrelevant?

A. It's irrelevant that he sign. Was only my knowledge, or with my knowledge. I never tell him this is sign, but as he already did it, what I got to do? I tell him -- I punish him. But he sign already and he tell me

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the customer was here and he signed the document in front of me.

Q. And it's your understanding that if this occurred, as we see in Exhibit 9, if it occurred that a customer at New York Motor Group needed subprime lending from Santander --

A. Then he would go to Planet Motor.

Q. They would be sent to Planet Motor Cars?

A. Correct.

Q. Okay, thank you.

MR. LANE: Let me now have this marked as Exhibit 10.

(Photocopy of an official check in the amount of $7,500 is marked as Plaintiff's Exhibit 10 for identification, as of this date.)

MR. LANE: For the record, the difference between Exhibit 5 and Exhibit 9 is that Exhibit 5 is just one part of the retail installment contract for Mr. Freire's transaction, and it's a copy of the retail installment contract that was produced by Bruce Minsky in response to discovery demands for the dealership's file related to Mr. Freire's transaction.

Exhibit 9 is the complete first page of the retail installment contract for Mr. Freire's transaction that Mr. Freire had a copy of that, and that I produced in discovery.

MR. SIMON: And that included the signature?

MR. LANE: That included the signature at the bottom of both Mr. Freire and, as Mr. Eltouby has indicated, the signature of Julio Estrada as the F&I representative.

Q. This is Exhibit 10. Take a look at that, front and back. What does Exhibit 10 look like?

A. Huh?

Q. What does that look like?

A. This is official check.

Q. It's a bank check?

A. Bank check, yes.

Q. Who is it made out to?

Mamdoh Eltouby

A. To New York Motor Group.

Q. And who is making the payment on that check?

A. What do you mean?

Q. What customer's name is on the check?

A. I don't know. I don't see any customer name.

Q. Whose name is listed above New York Motor Group?

A. Boris Freire, yes.

Q. Okay. So it's a bank check from TD Bank?

A. Mm-hmm.

Q. And it's regarding Boris Freire?

A. Yes.

Q. What date is on the check?

A. 20/18/2013 -- no. 2/18/2013.

Q. You can look at it. You don't need to show it to me.

How much money is the check made out for?

A. 7,500.

Q. On the back of the check, can you

tell who accepted that check?

A. I don't know who is signature, first of all. I say New York Motor Group. Is this cashed in my account, account number 6265019401? Which bank is this?

Q. I don't know.

A. I got to find out.

MR. SIMON: He didn't ask you that question. Just listen to his questions.

Q. Here's a question: When people gave bank checks to buy cars at New York Motor Group --

A. Yes.

Q. -- where did you deposit those checks?

A. This is the bank. The bank to the company.

Q. Which bank?

A. I have in this time Chase, and I have TD.

Q. Okay. So if somebody gave a large bank check as a downpayment on a purchase --

A. Right.

Q. -- you would deposit it with Chase

or TD Bank?

A. Yes. Any check.

Q. Any check at all?

A. Any check.

Q. There were only two banks; either Chase or TD Bank?

A. Yes.

Q. So does that look like a payment for Boris Freire's transaction?

A. Payment is downpayment, could be, yes.

Q. It's dated February 18, 2013?

A. Yes.

Q. What is the date on the bottom of Exhibit 9?

A. It's 2/19/2013.

Q. So, the next day?

A. Yes.

Q. We have established that Exhibit 9 lists Planet Motor Cars as the seller?

A. Correct.

Q. And you think that that's probably because Mr. Freire needed subprime lending --

A. Yes.

Mamdoh Eltouby

Q. -- through Santander?
A. Right.
Q. Which could only be arranged through Planet Motor Cars?
A. Right.
Q. If that's the case, why is Mr. Freire making a large downpayment to New York Motor Group?
A. Because he did the business over there, you know. He getting approved from Santander, but in his mind he coming to New York Motor Group, and he make the payment to New York Motor Group.
Q. Would you transfer --
A. He doesn't know.
Q. In his mind --
A. No.
Q. In the customer's mind --
A. No, he doesn't know he supposed to make a check to Planet Motor Cars.
Q. Would you transfer that money to Planet Motor Cars?
A. Yes.
Q. Yes?

Mamdoh Eltouby

A. Yes.

*RQ MR. LANE: Let me call for the production of all bank records for New York Motor Group. And to the extent that Mr. Eltouby has any control over it, we're going to call for production of all bank records for Planet Motor Cars during 2010 to the present. I think that's it, all bank records.

We need to see these transactions. We need to see the money going back and forth between Planet Motor Cars and New York Motor Group. He has testified that in the situation where a consumer, quote, unquote, "requires" subprime lending, that would have to be arranged through Planet Motor Cars. And if a consumer made the deposit to New York Motor Group for a transaction financed through Santander and Planet Motor Cars, that New York Motor Group would then transfer the money to Planet Motor Cars.

We are absolutely entitled to the information related to that, now that he

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has testified to that. And we're going to call for production of all the bank records for New York Motor Group -- and to the extent that he has control over it, for Planet Motor Cars.

MR. SIMON: Freire assumed that New York Motor Group was the seller; right?

MR. LANE: And Planet Motor Cars.

MR. SIMON: And Planet Motor Cars; both.

MR. LANE: And Mr. Minsky has indicated that he represents both Planet Motor Cars and New York Motor Group, so it really doesn't matter whether or not Mr. Eltouby personally has control over it. It's going to have to be produced, because somebody hired Mr. Minsky to represent New York Motor Group and Planet Motor Cars.

Q. In fact, next question: Did you hire Mr. Minsky?

A. Yes.

Q. Did you hire Mr. Minsky to

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represent Planet Motor Cars in these cases?

A. Yes.

Q. Thank you.

MR. SIMON: But you're not confining your request for bank records to the Freire transaction?

MR. LANE: I am not, no. I'm requesting the bank records for both businesses from 2010 to the present. I don't really think I need to limit it. We need to see money going in from customers and money that's transferred back and forth between the companies, because he has now just indicated that that money would transfer back and forth between them.

MR. SIMON: But you don't just want bank records pertaining to the Freire transaction; you want all the bank records?

MR. LANE: Yes.

MR. SIMON: For what period of time?

MR. LANE: From 2010 to the

present.

MR. SIMON: For which entities?

MR. LANE: Both entities. New York Motor Group and Planet Motor Cars.

MR. SIMON: We will take that under advisement, but if the bank imposes fees and costs on that, is your office willing or your client willing to reimburse the bank's charges?

MR. LANE: I'm not agreeing to that, no. Where are the costs for that? You get your banking statements, your monthly banking statements.

MR. SIMON: I just asked. And the question was "if" the bank imposes charges.

MR. LANE: No, I'm not agreeing to that. If you want to make a motion about it, we'll do whatever we need to, but I'm not agreeing to that, no.

MR. SIMON: All I said is we'll take under advisement your request. And you didn't limit it to any particular bank.

Mamdoh Eltouby

MR. LANE: All the banks that both companies do business with.

Q. You indicated that New York Motor Group only did --

MR. LANE: Excuse me, strike that.

Q. Is it correct that you indicated that New York Motor Group had two business banking accounts; one at Chase, and one at TD Bank?

A. Correct.

Q. Did it have any other accounts where it put customer payments?

A. No.

Q. What were the banks that Planet Motor Cars deposited customer payments into?

A. Chase.

Q. Chase?

A. Mm-hmm.

Q. And?

A. And HSBC, but it's closed. That's a long time ago.

Q. Did you open the accounts on behalf of Planet Motor Cars at Chase and at HSBC?

A. Yes.
Q. And did you open the accounts on behalf of New York Motor Group in TD Bank and --
A. Yes.
Q. -- Chase?
Did you ever put money from the dealership into your personal account?
A. From the dealership to my personal account? No, I got only my salary.
Q. And you paid yourself from New York Motor Group's accounts?
A. Again, this is already payroll company.
Q. Payroll?
A. Yes.
Q. And would payroll draw the money to make payroll checks from TD Bank or Chase?
A. For which dealership?
Q. For New York Motor Group.
A. Yes.
Q. From either one?
A. The amount of this is supposed to be already reported, you know.

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Q. Right, through the payroll.
A. And this is the same amount.
Q. Was that money drawn from the TD account?
A. It's not drawn. It's only checks.
Q. If the payroll company is creating the checks, where was the payroll company taking the money from to pay the checks?
A. Payroll company is not taking the money. This is only making the check and they send it to us, and we sign and give it to everybody.
Q. What bank did you pay people out of?
A. Chase, I think.
Q. And what bank did Planet Motor Cars use to pay employees?
A. Chase.
Q. Did you draw a salary from Planet Motor Cars?
A. Salary? Not really.
Q. But you drew a salary from New York Motor Group; correct?
A. Before.

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Q. You used to get a salary from Planet Motor Cars?

A. Before -- before New York Motor Group opened.

Q. Before New York Motor Group opened?

A. Yes.

Q. What was your salary when you worked at Planet Motor Cars?

A. I don't remember exactly what.

MR. SIMON: Note my objection to the relevancy. You can answer.

A. This is -- I don't have it right now.

*RQ MR. LANE: We will leave a blank space for you to fill in the salary at Planet Motor Cars.

INSERT: ____

MR. LANE: I will follow up in writing with your attorney to get the amount of the salary that you drew from Planet Motor Cars when you worked there, including the dates that you took that salary.

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Q. What was your salary at New York Motor Group?

MR. SIMON: Note my objection to the relevancy of the question.

A. I don't remember. I got to be, I got to get it also -- that will be provided from my accountant.

*RQ MR. LANE: We will leave a blank space for the amount of your salary from New York Motor Group.

INSERT: ____

MR. LANE: We will get that information from your accountant and will follow up in writing with that request.

Q. Did you get the same amount each month or would it change?

A. Yes.

Q. Same amount?

A. Same.

Q. Would you get paid monthly or every week?

A. Monthly.

Q. Once a month?

A. Mm-hmm.

Q. Did Nada receive a salary from New York Motor Group?

A. Actually not. She was living with me. I give her whatever she wants.

Q. You gave her cash when she needed it?

A. No, this is my daughter.

MR. SIMON: Keep your voice up so she can hear you.

A. I say, it's my daughter. I provide everything for her.

Q. But you did give her cash when she asked for it?

A. I gave her cash, yes. How you dealing with your kids? You give them cash or you give them checks?

Q. I'm not answering questions at a deposition.

A. Okay. You want me to make the payroll in the house? I have to give my kids and my wife also.

Q. I don't know exactly what you do, but that's why I'm asking.

A. Okay.

MR. GROSSMAN: Can I just take a two-minute break to the men's room?

MR. LANE: Off the record.

(A brief recess is taken.)

oOo

Q. Mr. Eltouby, let me ask you about Anwar Alkhatib. Do you remember anything about Anwar Alkhatib?

A. Yes.

Q. What do you remember about him in that transaction?

A. I remember this is, he is, he come in buying cars from all the way in New Jersey, you know, and he know very good the car in his market -- this is much more money than what we have, you know. And when he put the car, he put also the aftermarket, after-sale, and he denied -- after he bought the after-sale and sign it and everything, he denied, and he say, "No, I want the car with this price." I said the market for the car is very high until now, because the car is Honda Odyssey, you know, is touring package, you know, the best of the best. That means the top, top line of car.

Q. Were you present during his negotiations to purchase the car?

A. I was not there, because I heard, and I offer him -- I tell him "Give me the car back. I give you all your money back."

Q. When did you tell him that?

A. I tell him this when he start to make a lawsuit. I tell him, I offer him, "Mr. Alkhatib, Give me the car back, take your money." I can sell the car for anybody else.

Q. When did you say that to him?

A. I say this before. He say, "No, I keep the car and I not take money from you."

Q. What date did you say this to him?

A. This was before he did, he did the Federal Court. He did sue us in the Federal Court, and my lawyer he tell me it's going to be cost a lot of money, in Federal Court it cost a lost of money, it's better off taking the car back. I offer him taking the car back from him, you know, and give him all his money with whole expense. But he not very good because he cannot find a cheap car like this,

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and he stupid, he say, "No, no, no, I want take the car, and I take the money."

Q. Did you say this to him?

A. Yes, I say this to him.

Q. When did you say this directly to him?

A. I say this, we say -- we call him in the phone and we tell him this, we offer him this.

Q. You did this to him after he had hired an attorney?

A. After, I think, hired attorney. Then we meet in federal court after this.

Q. Yes?

A. Meet in federal court. The judge secretary say, "Listen, if you go for this case -- which was the first case -- if you go through this case, it's going to be cost you at least $30,000. Ask your lawyer. Would you pay him something?" I say, "Okay, yeah, we settle." Then he say $6,000, he want take $6,000 back.

Q. I'm not really asking you about the negotiations for settlement. I'm asking you about Mr. Alkhatib's transaction.

A. Yeah. Then we agree already on everything, but Capital One was not agreeing.

Q. Again, I'm not really asking about that.

A. Yeah. But --

Q. Did you ever see the advertisement for the vehicle that Mr. Alkhatib purchased?

A. Yes.

Q. Do you remember whether or not it was a Honda Odyssey?

A. Yes.

Q. EX-L?

A. EX-L, yes.

MR. LANE: Can we mark this as Exhibit 11.

(Document is marked as Plaintiff's Exhibit 11 for identification, as of this date.)

Q. Take a look at that.

A. Yes, $14,995, almost $15,000.

Q. Is Exhibit 11 an advertisement for the Honda Odyssey --

A. Yes.

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Q. -- that Mr. Alkhatib purchased?

A. Yes, but this is the disclosure. We only printed this -- we not print disclosure in the website, which says according to this only finance and loan finance, and must be coming with downpayment and this, like everybody.

Q. So what does the disclosure tell someone?

A. Yes, the disclosure, this what I explained to you. This is called, you know, disclosure. This is amount of finance, and must be customer come in with downpayment, and according also for the lender 700 credit score and above, you know.

Q. Where would it tell me that in the advertisement?

A. In the website for the dealership.

Q. In the website for the dealership?

A. Yes.

Q. But this is not from the dealership. Do you see the website listed at the bottom?

A. This is internet. When we asking

the customer to go to the dealership and go into the exactly advertised and come to us.

Q. What is the website on the bottom of this page? Cars-dot-com?

A. Which one is this? Yes, cars-dot-com.

Q. Would advertisements on cars-dot-com have that same disclosure?

A. No.

Q. No?

A. Because the company is not allowed to put any disclosure.

Q. So when the dealership, when New York Motor Group advertised on cars-dot-com, they did not include that disclosure?

A. Yeah, but we tell the customer before they come in to get a print of the advertisement from our website coming over.

Q. When do you tell them that?

A. This is the girl, she working as a BDC -- which is the telemarketing for the dealership. Telemarketing.

Q. What if somebody did not call her before they come in?

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A. No, they always call to ask the price of the car.

Q. What if they didn't?

A. It cannot be coming from the site, you mean?

Q. What?

A. Yes, we tell him. We tell him this is the price, you understand, additional downpayment. This the sales manager tell.

Q. So after they arrived at the dealership, then the sales manager would explain that? And if all they saw was the price advertised on cars-dot-com, they didn't understand that there was also a disclaimer that they couldn't get this price unless they had a certain credit score?

A. Most of the people they come in from out of state.

Q. No, no, no. Answer my question.

A. Yes.

Q. If somebody had just seen this on cars-dot-com, if someone sees that the Honda Odyssey is being sold for $14,995, and they just take that and they go into the dealership

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and they say, "I want to buy the Honda Odyssey advertised at $14,995," would one of your salespeople at that time then tell them, "Well, that price is only if you have a certain credit score"?

A. Yeah, and fees, and so on.

Q. And they would explain that at the dealership?

A. Yes, explain it at the dealership.

Q. Thank you.

I will put Exhibit 8 back in front of you. You identified Exhibit 8 previously as the buyer's order that was filled out in Mr. Alkhatib's transaction; correct?

A. Yes.

Q. What price is listed on the buyer's order filled out for Mr. Alkhatib's transaction?

A. Seventeen -- uh, 14,995 -- no -- seventeen. It looks like seventeen.

Q. To me, it looks like it says $17,500.

A. Looks like to me also, $17,500.

Q. And then $17,500 is crossed out;

right?

A. Yes.

Q. And there's an arrow pointing down to what price?

A. He want to pay 13,995 -- he want to pay.

Q. Fine.

A. But this means sold him on this here. You see the arrow coming down here?

Q. Right.

A. The salesman he tell him, okay, finalize, but let me see your credit first, and we're going to see according to your lender and the --

Q. The salesman tells him that?

A. The salesman tell him, yes.

Q. But does it say that anywhere on the buyer's order?

A. This is, no, subject to -- promise -- do you see here? Do you see these words?

Q. Can you read that?

A. You cannot read it?

Q. Does it say, "Subject to primary

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lender approval must finance with New York Motor Group banks"?

A. Correct.

Q. So then what you're saying is that while the buyer's order indicates a price of $13,995, there's no guarantee that somebody can get that price?

A. Yeah, there's no guarantee.

Q. And your salespeople or the salespeople at New York Motor Group should have also explained that he can only get that price if his credit score is at a certain number?

A. No, no, no.

Q. So what is going to affect a change to that price?

A. This is only the finalize this the F&I, finance guy, the only one.

Q. So what would the salesperson tell him about this price?

A. Only the one he discuss about the score and the lender and something, the finance guy. Because this is confidential.

Q. But, again, it was your testimony that Exhibit 8 -- the buyer's order -- is not a

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binding contract on the --

A. No.

Q. -- seller or the buyer?

A. No, no. He can go elsewhere. If he don't like the deal, all the deal, he say, "No, I don't want it."

Q. But, again, does the seller's order have any information aside from this handwritten note --

A. No.

Q. -- that tells somebody that they may not get the price of $13,995?

MR. SIMON: That's the buyer's order. You covered the seller's order.

MR. LANE: Thanks.

Q. Is there any other information on here, aside from the handwritten note, that let's a buyer know that they may not get the listed price on the buyer's order?

A. The salesman, you see here, he write for them --

MR. SIMON: Listen to the question and answer him.

A. I don't understand.

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Q. Here's the question. Here's what I want to know: I asked you before if the buyer's order disclosed that this price could change based on financing information. You said that there was a handwritten note that tells them this price is subject to the primary lender approval, and it requires that the buyer finance through New York Motor Group?

A. Correct.

Q. Is there anything else on this form that would let a consumer know that any price listed here is going to be subject to a lender's approval?

A. No.

Q. And again, Exhibit 8, this buyer's order, and any buyer's order at New York Motor Group, was never intended to be a binding contract on --

A. No.

Q. -- the seller or the buyer?

A. Not any. This one here, the particular, this is written in the hand between the salesman and the customer.

Q. Okay.

A. And the customer can void it anytime and say, "No, I don't want it, I don't want to even go to the sales, the F&I," you know, "Give me my money back, 200, and leave." You know?

Q. All right.

MR. LANE: Let's have this marked as Exhibit 12.

(Document on letterhead of Planet Motor Cars is marked as Plaintiff's Exhibit 12 for identification, as of this date.)

Q. Look at Exhibit 12. It's another document that was produced by the dealership -- by New York Motor Group or Planet Motor Cars -- when we requested production of documents related to Mr. Alkhatib's transaction. Do you recognize Exhibit 12?

A. Yes.

Q. What is that?

A. This is, you know, the customer -- also when the customer take the car and the F&I, he get paid all for the commission, commission for the reserve. You know what is

"Reserve"?

Q. Please explain to me what the reserve is.

A. Reserve also when you market -- say, example, the loan accepted from the bank is 6 percent and you market the loan as, legally you can market the loan one percent or two percent.

Q. Meaning you, the dealership, can increase the interest rate by one or two points?

A. Exactly. This is legal.

Q. Above whatever the bank --

A. Exactly. The customer, example, he paid the loan fast and then the bank take the money back.

Q. So let me understand this. If my loan has been approved by a bank --

A. Correct.

Q. -- at a rate of 6 percent interest --

A. Yes.

Q. -- legally, the dealership could increase the rate of a loan up to 8 percent?

A. Correct.

Q. Over the life of the loan, the dealership is going to receive the difference between financing on 6 percent and financing on 8 percent?

A. Yes.

Q. How is the dealership going to receive that money?

A. They receive 75 percent.

Q. Seventy-five percent of the difference between 8 percent and 6 percent financing?

A. Yes, yes.

Q. When I say "financing," I mean the finance charge. So for example, if my loan at 6 percent has a finance charge of $10,000 over the life of the loan --

A. Correct.

Q. -- but the loan at 8 percent has a finance charge of $12,000 over the life of the loan, the dealership is going to receive 75 percent of the $2,000 difference?

A. Correct.

Q. How often is the dealership going

to get paid?
A. Reserve. This is after the deal happen, is the bank send us, you know, separate reserve.
Q. Would they send all 75 percent at once?
A. Yes. It's in the deal, in the deal.
Q. If I then take that deal and two months later get a better deal from a different bank and I go to refinance, what happens to the dealership's reserve?
A. The bank take the money back.
Q. They contact you?
A. Yes.
Q. And they demand --
A. Yes.
Q. -- that you return all 75 percent?
A. Yes, correct.
Q. So, return the entire reserve payment?
A. Correct. It's legal by New York. Also by any new car dealer and the department. Everybody is agree about it.

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Q. Because there was the risk that you would lose the reserve, you would ask your customers or you would require your customers to agree not to refinance the loan for the first six months?

A. Correct.

Q. If they refinanced the loan in the seventh month, would they not demand the reserve back?

A. That's correct.

Q. Every bank that New York Motor Group and Planet Motor Cars worked with, would they all demand their reserve back if the loans were refinanced --

A. All.

Q. -- in the first six months?

A. All. Every one.

Q. They always would?

MR. SIMON: Note my objection to the question, because it presumes each bank has the same arrangement. Some may be four months, some may be eight months, some may be two months.

MR. LANE: The question was pretty

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clear: Would they all do it, if somebody refinanced within the first six months? And he seems to understand the question, and he answered it.

MR. SIMON: Okay.

Q. If the bank demanded a reserve be returned because of refinancing within the first six months for example, would Planet Motor Cars or New York Motor Group enforce this agreement against the customer?

A. It never happen.

Q. It never happened?

A. Never happened.

Q. So you used this document, but you never enforced it against customers?

A. Never happened.

But this, the F&I, he tried to put himself, this commission, solid.

Q. Because the F&I's commission --

A. Yes. We not do this, nobody do this. This is only sometimes F&I. You know, this is the finance manager, you know, try to, you know. But usually we not do this, you know.

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Q. You don't use this document at all --
A. No.
Q. -- in the dealerships you have worked at?
A. No.
Q. But if a finance representative used this document, you weren't concerned?
A. This is not really relevant.
Q. Was the finance representative's commission dependent on the reserve?
A. Yes.
Q. If you lost the reserve --
A. I charge him back also.
Q. You charged the finance representative part of the commission back?
A. Yes, yes.
Q. Was the reserve the only profit that the dealership made on the sale?
A. Some of the profit. Sometimes you sell the car and you get only -- you want to only get the car out.
Q. So there were deals where the sale of the car for cash would not result in a

profit?

A. No, no.

Q. No profit?

A. There's no reserve, no nothing.

Q. That's what I'm saying. Let's take Mr. Alkhatib, for example. If he had wanted to purchase this car with $15,000 in cash, would the dealership have made any profit on that sale?

A. No.

Q. The only way the dealership would make a profit is if there were financing with a reserve payment?

A. Offer him after-sale.

Q. Oh, with the after-sale?

A. Yes.

Q. So how did profits work for the after-sale products? Let me rephrase that.

MR. LANE: Let's take a specific example in Mr. Alkhatib's case. Let's mark this as the next exhibit.

(Vehicle service contract on letterhead of AUL is marked as Plaintiff's Exhibit 13 for identification, as of this date.)

MR. SIMON: Wasn't this shown to the witness already? I think it was.

MR. LANE: That's right. It was part of Exhibit 4.

MR. SIMON: Do you want to use Exhibit 4 instead of remarking?

MR. LANE: It's fine.

Q. Tell us what Exhibit 13 is.

A. It's a service contract.

Q. It's a service contract in Anwar Alkhatib's transaction?

A. Yes.

Q. It's identical to Exhibit 4; correct?

A. Correct.

MR. LANE: I will tell you. I will disclose that the only difference is that Exhibit 13 is the copy that Mr. Alkhatib had, and that I produced. And Exhibit 4 is the copy in the dealership's file that was produced by Bruce Minsky in response to our discovery demands.

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Q. Look at Exhibit 13. It's a service contract with what company?

A. Planet Motor Cars.

Q. Who is the service contract vendor?

A. AUL.

Q. Did New York Motor Group or Planet Motor Cars --

MR. LANE: Strike that.

Q. Did New York Motor Group have a contract with AUL?

A. I think so, yes.

Q. And did Planet Motor Cars have a contract with AUL?

A. Yes.

Q. What was the nature of that contract? Describe it to me.

A. It's not contract. We sign with the company.

Q. You what?

A. We sign with the company, you know. It's one of the vendors.

Q. But did you sign a contract with the company?

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A. It's a vendor, yes.

Q. If New York Motor Group sells an AUL service contract, how much money would AUL get from the transaction?

A. I don't remember, I don't remember. Every transaction is different.

Q. How much money, even if it's just a percentage, would New York Motor Group get from the sale of the service contract?

A. I don't remember, because everyone is different, different.

Q. Is there a contract price on here?

A. You can see it here, 36 months.

MR. LANE: He's not testifying. He's reading to himself.

MR. SIMON: He's mumbling.

Q. Do you see where it says "term"?

A. Term.

Q. And it says a 36-month term?

A. Thirty-six, yes.

Q. And it's for 36,000 miles?

A. Correct.

Q. So the term of coverage is either 36 months or 36,000 miles?

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A. Correct.

Q. Below the 36,000 miles, doesn't it say "single payment contract price"?

A. Yes, yes. Contract cost $3,000.

Q. The contract costs $3,000?

A. Correct.

Q. If the contract sold for $3,000, would the dealership get all $3,000?

A. I don't understand. Can you repeat it?

Q. If this contract were sold for $3,000, would the dealership receive all $3,000?

A. Receive all the $3,000 from the customer, and pay for the contract.

Q. How much would the dealership have to pay for the contract?

A. I don't know. Again, every car is different. Because this is --

Q. Was there an agreement between the dealership and AUL that would tell you how much you could keep and how much it would cost?

A. No. This is how much is the cost for the contract. You have a list. So

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especially of the car, it's a minivan or a regular car, it's different prices.

Q. Okay. But the dealership would make a profit from selling this contract?

A. Absolutely.

Q. Okay. The amount of the profit depended on the cost of the car?

A. Cost of the contract.

Q. The cost of the contract?

A. Correct.

Q. Because the contract could cost more for certain cars?

A. Correct.

Q. I suppose it would also cost more if the terms were longer or shorter?

A. Yes.

Q. The type of coverage?

A. Correct. You're a car dealer by now.

Q. What's that?

A. You're a car dealer by now.

Q. I'm learning.

Was there a written agreement, a general written agreement? For example, New

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York Motor Group had written agreements with the lenders, they had dealership agreements with the lenders; correct?

A. Yes.

Q. And you would sign that agreement on behalf of the dealership?

A. Not really me. Could be the finance manager, because the finance also, the company -- the company give him also which is the contract. When they sell the contract they give him also additional hundred dollar or something, each contract.

MR. LANE: It's a minor point. I'm not going to make it.

(A discussion is held off the record.)

Q. Here's what I want to know. As an example, New York Motor Group had an ongoing agreement with M&T Bank --

A. Correct.

Q. -- that it would, for example, that it would assign retail installment contracts to M&T Bank --

A. Correct.

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Q. -- if M&T Bank was willing to take the contract; correct?

A. Yes.

Q. And you had an ongoing agreement and it was written down and it was signed by the dealership and it was signed by M&T Bank; correct?

A. Yes.

Q. Did you have a written agreement like that with AUL, that would say on a regular basis you would sell AUL service contracts and remit payment to AUL for the service contracts? Was there one general written agreement between New York Motor Group and AUL?

A. Let me explain. The bank is different than the warranty company.

Q. I understand.

A. Because the warranty company is have like a thousand warranty companies.

Q. I understand. All I want to know is, was there a legal --

A. When they come and they sign the F&I, he sign, because he give them money.

Q. Did somebody sign the written

contract?

A. Yes, yes, somebody sign.

Q. I asked for copies of that in discovery before, and it has never been produced. So if somebody signed that contract, does it exist somewhere?

A. This is in, that company is in California.

Q. But do you have a copy of the contract that was signed with --

A. I have to call the company and see which, who signed this first.

*RQ MR. LANE: We are going to call for production again. We will reiterate our demand for all contracts signed by either New York Motor Group or Planet Motor Cars with AUL for service contracts. We're also going to call for production of the contracts that New York Motor Group or Planet Motor Cars had with any vendor of after-sale products as they have been identified by Mr. Eltouby. This will certainly include Technology Insurance Company and any other vendor who provided aftermarket products that were sold -- after-sale products that were sold by New York Motor Group during the transactions.

MR. SIMON: You are limiting that?

MR. LANE: I'm sorry, it's going to be from New York Motor Group and from Planet Motor Cars. Go ahead. Am I limiting it to?

MR. SIMON: To the plaintiffs in related cases, to the after-sale warranties and products that they purchased?

MR. LANE: No, we're not going to limit it to just the plaintiffs. It's going to be a request for all the contracts with all vendors of after-sale products at New York Motor Group or Planet Motor Cars.

MR. SIMON: For any customer?

MR. LANE: Any customer whatsoever.

MR. SIMON: During what period of

time?

MR. LANE: 2010 to the present.

MR. SIMON: We'll take it under advisement.

MR. LANE: To be clear, I'm not wanting to see the contract given to the customer. I want the contract --

THE WITNESS: The agreement?

MR. LANE: The agreement between the dealership and the vendor.

THE WITNESS: I understand.

MR. SIMON: The master agreement?

MR. LANE: Yes.

Q. And again, just so I understand whether we were talking about AUL or whether we were talking about the theft deterrent product protection -- which was the other part of Exhibit 4 -- if New York Motor Group or Planet Motor Cars sold that product, New York Motor Group or Planet Motor Cars would make a profit on the sale of that product? Please answer yes or no to that.

A. Yes.

Q. Just to be clear, what you were

saying was that these products were part of the way that New York Motor Group and Planet Motor Cars made a profit on the sales?

A. Yes.

Q. Is that because oftentimes selling for just the cash price of the vehicle would not make any profit for the dealership?

A. I don't understand the question exactly. Repeat it again.

Q. Let me give you an example.

MR. LANE: Can we mark this.

(Document with heading of Manheim.com, entitled "Buyer Vehicle History Details," is marked as Plaintiff's Exhibit 14 for identification, as of this date.)

(A discussion is held off the record.)

oOo

MR. LANE: Why don't we talk about that afterwards, Richard.

I'm sorry, I feel like the record is going to be confusing at this point, and I just want to make it clear.

Mr. Simon was asking me something off the record before we went back on the record.

MR. SIMON: We were off the record.

MR. LANE: I know. But I believe I made a comment on the record while we were talking about it afterwards, Richard. I want to be clear that I was only referring to something Mr. Simon asked me about discovery, and that we are not going to discuss on the record. We will talk about it afterwards.

MR. SIMON: I didn't know. I assumed we were all off the record.

MR. LANE: It made it on the record, and I just wanted to clear it up so that it doesn't look weird.

MR. SIMON: Now that we're back on the record, I just want to object to the form of the last question that was asked of my client.

MR. LANE: The question was asked and was answered, and now you're going to object to the form of it? Okay.

Q. Take a look at Exhibit 14.

MR. SIMON: While he's looking at that, I just objected to the form. You were referencing profit.

MR. LANE: Oh, right. Well, that's why we're clarifying.

MR. SIMON: Profit means many things to many people.

MR. LANE: That question is withdrawn, and we're going to clarify it.

MR. SIMON: Just so there's no misunderstanding, while he's looking at the document. Dealerships have other costs associated with their business, rather than each car, the profit and loss and each transaction. They have other fixed costs. That's why I objected to the use of the word "Profit." Are you looking at this document?

THE WITNESS: Yes.

MR. SIMON: Tell him when you're

ready to answer questions about it.

A. Okay.

Q. Do you recognize what Exhibit 14 is?

A. Yes.

Q. What is it?

A. I think this is somebody inquiring, the car was sold in auction for how much.

Q. Again, I'm not sure I know what it is, but I'm asking you. Is it a statement of how much a particular car would have cost at an auction?

A. In auction, yes.

Q. This document was produced to Mr. Tuhin's counsel as part of initial disclosures, and so it was given by the dealerships to Mr. Tuhin's counsel. Does this document look like a printout from the website for Manheim.com?

A. Mm-mm.

Q. And is Manheim one of the auctioneers?

A. Auction. Not auctioneers.

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Auction. It's an auction place and they have so many auctioneers that auction the cars.

Q. So Manheim is a place where auto auctions occur?

A. My vendor.

Q. Your vendor?

A. Vendor. I buy from Manheim.

Q. You buy from Manheim?

A. Yes.

Q. So what is the sale price listed for the car on this document?

A. It's $15,600. Then the auction fee is $350. The total is $15,950 without any other fee, which is the floor planning. Without transportation. Without, you know, floor planning.

Q. Okay. So how much did it cost New York Motor Group to buy that car at an auction?

A. I buy this car under --

Q. I'm sorry. Who bought the car?

A. I bought the car under Palisades Dealer Funding.

Q. The buyer is listed as Palisades Dealer Funding?

A. Yes.

Q. Who is the representative buying the car for Palisades Dealer Funding?

A. That's me.

Q. So you acted as a representative of Palisades --

A. Right.

Q. -- to buy the car?

A. Right. They give me authorize.

Q. They give you authorization to buy the cars under their name?

A. Correct.

Q. Okay. And then they keep the title after you purchase the car?

A. Yes. The fees and title and everything. And they transport her.

Q. Would they pay all of the fees?

A. They pay everything.

Q. And then, when you sell the car --

A. Then they pay off this part.

Q. You have to give them back --

A. The payoff.

Q. The payoff amount?

A. The payoff amount.

Q. The payoff amount may not necessarily be the buyer's net?

A. No.

Q. Would it be lower than the buyer's net?

A. How it gonna be lower?

Q. It's going to be higher than the buyer's net?

A. Exactly.

Q. They charge you a premium for lending you the money?

A. Correct.

Q. So the buyer's net here says what -- $15,950?

A. Yes.

Q. And these are just the costs for the auction?

A. Correct.

Q. Between Palisades and New York Motor Group or Palisades and Planet Motor Cars --

A. Yes.

Q. -- there was another agreement, but they were going to charge you additional fees that had to be paid but would only be paid after the car had been sold?

A. When the car is sold they say that they pay off which is per day, you understand? They charging interest per day. And they charging also another fee, document fee, and buyer fee and so many.

Q. So the longer the car sits in the lot of the dealership --

A. More money.

Q. -- the more money it costs when you have to pay off Palisades?

A. Right. Plus the transportation.

Q. So the cost to New York Motor Group or Planet Motor Cars is always going to be higher than the buyer's net?

A. Oh, yes. Much higher. Almost 18 percent.

Q. This was from yesterday, marked as Exhibit 3?

A. Yes.

Q. Is that an advertisement for the sale of the car in Mr. Tuhin's transaction?

A. Yes.

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Q. What is the advertised sale price?

A. This is $14,995.

Q. Is that the same car as this car that was purchased --

A. Yes.

Q. -- at Manheim?

A. Yes.

Q. Why would New York Motor Group advertise the sale price of the vehicle for less than the buyer's net at the auction?

A. I say again, this is only amount of finance, it's not the price. It's amount of finance. And the customer have to be coming in with $2,000 additional to this. If you calculate as $14,995 plus $2,000, it's $17,000, which is already our, you know, our thousand dollar over the buying or less. And this is our profit, you know.

Q. So --

A. Don't forget, we sell cars and you sell time. Do you understand?

Q. Okay. So New York Motor Group never intended to sell the car for $14,995?

A. Absolutely not. Because that's

got to be stupid.

Q. It would be stupid for New York Motor Group to sell the car for $14,995?

A. Exactly. Yes.

MR. LANE: I'm going to try to move this along so Mr. Brener can get in.

Q. Let me just show you one other document from Mr. Freire. Yesterday, Mr. Keshavarz had asked you about when you discovered that there were problems with Julio Estrada at the dealership and, if I'm not mistaken, you indicated that it was about August of 2013?

A. Yes.

Q. You were talking about having seen contracts where the creditor or the seller was listed as "DLR"?

A. Mm-hmm.

MR. LANE: Let me that have this marked as the next exhibit.

(Document referencing Boris Freire and Miriam Osorio is marked as Plaintiff's Exhibit 15 for

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identification, as of this date.)

Q. I'm giving you Plaintiff's Exhibit 15, which is three pages front and back. Take a look at that. I'm sorry, what was that?

A. I say only the people with Odyssey. You realize this is the people is too cheap, they want to take the car for free.

Q. What did they realize was too cheap?

A. Because they coming from New Jersey, and in New Jersey this particular car is too expensive. Family car, it's very expensive in New Jersey. They try to come in in New York to take this car very, very cheap.

Q. But aren't they coming in because of the advertisement for the price of the car?

A. Yes, but they don't understand the concept. They don't understand what's the difference between New Jersey and New York. They don't understand. They just want to steal the car.

Q. Is one of the things that they're not understanding that the price on the

advertisement is not the price they're going to get for the purchase price of the car?
A. We told them. We explained everything to the customer. And he -- the customer -- can walk and go and say, "You know what, I don't want the car." Instead, he do this, all the mess.
Q. Let's take a look at Exhibit 15.
A. Okay.
Q. You were mentioning yesterday that you had seen some contracts that were created -- that you assumed were created -- by Mr. Estrada, that listed DLR as the seller?
A. Yes.
Q. Is that one of those contracts?
A. This mean he's taking the money out, he pocket the money.
Q. He what?
A. He must be pocket the money.
Q. Pocketing the money?
A. Yeah.
Q. Who must be pocketing the money?
A. Julio.
Q. Julio Estrada?

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A. Yes. How he give the customer? This is only the one?

Q. I'm sorry?

A. This is not such --

Q. That's a document that we turned over, a document that Mr. Freire had. We produced that in response to the dealership's demands for documents.

A. I got to see it. I don't have this here, I don't have this. I don't have it at all.

Q. No, it wasn't produced to us by the dealership.

A. So that was produced by the customer?

Q. The customer had a copy of that; it was given to him.

A. I have a question. This customer, he bought the car for how much?

Q. I'm not going to answer that question.

A. It looks like another car is stolen from me, this is stealing.

Q. So, when you were --

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A. This is 100 percent stealing.

MR. SIMON: Just answer his questions.

Q. What I want to know is, is this the kind of contract that you were referring to yesterday when you said it looked like Julio Estrada had created documents that listed DLR --

A. Yes.

Q. -- as the seller?

A. Yes.

Q. And he did it to get cash from customers; is that what you think was done?

A. Yes, 100 percent.

Q. And you saw contracts like this in the summer of 2013?

A. Yes. I see these people come in with something like this, and he want his deposit back or something like this. But this is here different. The customer, he have a car; right?

Q. Yes, the customer already had the car. I will tell you that Mr. Freire already had his car. He had already purchased the car under a retail installment contract that was assigned to Santander.

A. Yeah, so how come this is not Santander?

Q. Actually, take a look at the very bottom of page one.

A. Santander would be under this contract.

Q. Who is listed as the assignee of this contract?

A. It say DLR, and it is Santander Consumer.

Q. That is listed as the assignee?

A. Yes. DLR and Santander Consumer. Santander is never funding this deal, they don't.

Q. I'm not asking about that. Here's my point: You seem very disturbed by this contract.

A. Yes.

Q. It's a disturbing contract?

A. Yes.

Q. Why is it so disturbing?

A. I don't know. This could be this

is he steal this car and they give the guy -- this is the original contract?

Q. No.

MR. SIMON: That's the retail installment contract.

Q. He already was given one retail installment contract.

A. Okay. Can I see it?

Q. You looked at it. You just looked at it before. It's Exhibit 4 -- I'm sorry, it's Exhibit 9.

MR. SIMON: It was part of 4.

Q. It's Exhibit 9.

MR. SIMON: The front page was part of 4.

A. So the guy, he signed two contract, you see this is here? This is original contract, and this is here the customer. You see here?

MR. SIMON: Look at the date on the first one.

THE WITNESS: The date on the first one? February 18, 2013.

MR. SIMON: That is the date on

the first one?

THE WITNESS: Yes. Okay. Excuse me, I have question. The customer say this have two contract?

MR. LANE: Mr. Freire had both of these contracts in his possession, yes.

THE WITNESS: I know, but does he have the two contracts?

MR. LANE: These are the two contracts that he signed at New York Motor Group.

THE WITNESS: This is a bogus. Excuse me, this is bogus.

MR. LANE: Okay.

Q. Would you be surprised to know that he signed that at New York Motor Group; that this contract was given to him at New York Motor Group?

A. You see here, not even signature for F&I.

Q. I understand.

A. You know, it must be something, something happened. I don't understand it.

Q. Let me take a look.

Mamdoh Eltouby

MR. SIMON: Can the record note that he is pointing to the second contract?

MR. LANE: To Exhibit 15.

MR. SIMON: Exhibit 15.

MR. LANE: Absolutely.

A. This is, excuse me to say, this is bogus.

Q. So you believe that Exhibit 15 shows a bogus contract?

A. One hundred percent.

Q. Again, is it true that you had seen that Julio Estrada was creating bogus contracts like Exhibit 15?

A. Yes.

Q. What did you do when you saw that he had been creating bogus contracts?

A. I never see this.

Q. I'm not asking you if you saw Exhibit 15 specifically, but you saw contracts like Exhibit 15?

A. Yes. And I explained the people, "Did you give this guy money?" They tell me, yes, they do. I tell them this is bogus.

Q. What did you do for the customer when they told you that they had given money to Julio Estrada?

A. I referred right away to the DA.

Q. Would you refund them the money?

A. No, I referred them to the DA. I never take from them money, I never take from the customer money.

Q. But didn't you feel like you had some responsibility to the customer?

A. No, because he went already to this place, to outside of my dealership.

Q. But you knew that these contracts were signed at New York Motor Group; correct?

A. I don't know if they sign in New York Motor Group or not. He tell me, "This is my business outside," or I asked him, "What is this here?" He tell me, "Don't worry about it, this is another dealer I do business with."

Q. Do you ever remember speaking to Mr. Freire?

A. Freire?

Q. Yes.

A. No, never.

Mamdoh Eltouby

Q. You don't remember speaking to him?

A. I never speak with him. He told you this, he speak with me?

MR. SIMON: Just answer the question.

Q. You keep asking me questions.

A. I'm sorry.

Q. I can't answer your questions.

A. I'm sorry, I'm sorry. I never speak with him.

Q. You never spoke with Boris Freire?

A. Never speak with him.

If he recognize here, you see how the contract is, you see here between this contract? You see here the name of the customer is here, and here the name of the dealer. You see he put here the name of the customer and "DLR." You can ask Santander if you have a dealership called DLR sign with you or not.

Q. But there's no allegation that Exhibit 15 was assigned to any bank.

A. That's bogus.

Mamdoh Eltouby

Q. That's not an allegation.
A. Bogus.
Q. Nobody thinks Exhibit 15 was assigned to a bank.
A. Bogus.
MR. SIMON: Let the record reflect that my client was comparing Exhibit 9 and Exhibit 15 during his testimony.
Q. Exhibit 9 was absolutely assigned to Santander, and that is part of the allegation -- but nobody is saying that Exhibit 15 was assigned.
I'm curious though, because you are stressing that it's bogus because the dealership's name is not listed.
A. Yeah. This is the end of this before he leaving. He starting to becoming like wild. He was robbing everybody.
Q. But if you knew that he was doing this at your dealership, did you take --
A. No.
Q. -- did you take any steps?
A. No, it's not in my dealership, because the people they come in with the

contract. I never see them in dealership, and they is not speaking English.

Q. Did Nada ever tell you that --

A. I ask her --

Q. -- Julio was providing contracts like this to people?

A. No.

Q. She never told you that?

A. She never tell me this. Because I ask her, "Do you see these people before?" And she tell me no.

Q. You asked her if she had seen Mr. Freire before?

A. No, no, no, not Freire. The people that have on the contract say "DLR."

Q. I know you probably spoke to a lot of people at your dealership.

A. Yes.

Q. But you don't think you ever spoke to Mr. Freire?

A. Absolutely not. I not even remember him.

Q. Okay.

A. I don't know if he --

Mamdoh Eltouby

Q. Did you ever ask any customers --

MR. SIMON: Let him finish his answer.

MR. LANE: He said he doesn't remember.

A. No, no, no. I want to say it also: Most of the time when I come to dealership and I see is any customer come in and a complaint or something, I take him over to the side and ask him what is the complaint about. Most of the people they not speaking English, and this is what Mr. Julio Estrada, he take advantage for the people that don't speak English and not understand.

Q. So if somebody told you that Julio Estrada promised that they could refinance their car loan after six months, and they came back to refinance it, and they had given money to Julio Estrada because he demanded money to refinance it --

A. I even asking the customer right away.

Q. Let me finish the question.

If a customer came in and told you

this, would you do anything to get them their money back?

A. Yes, absolutely.

Q. What would you do to get them their money back?

A. I would get him right away. I would tell him he take from this guy money. And then the customer, he come in, "Don't worry, don't worry about it, don't worry, I handle this with Julio." He's a con artist.

Q. Fine. But would you tell Julio to return money to people?

A. Yes. I tell him, please, I don't want these people coming to asking me.

Q. So there were instances where this occurred and Julio was still working there?

A. Yes, in the end of it.

Q. And then you said to Julio, "Give them back whatever money you took from them"?

A. The money, yes.

Q. Did you fire him on the spot?

A. I fire him in the spot.

Q. On the spot?

A. Yes.

Q. Well, how many times did this occur?

A. This is a time when end of August, I think. I tell him, listen, if you started to play the game and tell people this and this and this, I refer every one of them to the district attorney, and he going to deal with it.

Q. But did you let him continue working at New York Motor Group --

A. No.

Q. -- after August 2013?

A. No.

Q. Was he ever at the dealership after August 2013?

A. 2013?

Q. Yes.

A. August?

Q. You just said --

A. No, no, August he was there.

Q. Right. So when did you fire Julio Estrada?

A. End of November, the first day of December, end of November.

Q. When did you ever learn about a

Mamdoh Eltouby

bogus contract and then tell Julio Estrada to refund the money to the customer?

A. This is in -- about in November, November, exactly about November. I tell him, "Listen, where is these people?" He telling me, "I have the different business, this is a taxi business. I have nothing to do with you." I tell him, listen, but why the people coming to my place?

Q. That is what Estrada told you?

A. Yes.

Q. That these things were happening at another business?

A. He have another business with taxi.

Q. I just want to be clear, because yesterday you testified you discovered that Julio Estrada was doing bad things in August of 2013.

A. Yeah, this is starting, it starting to be in the end. Then I be watching and I tell my daughter any customer come in here, that she's got to be sit down and go to inside, you know.

Mamdoh Eltouby

Q. You also started audio-recording Julio Estrada's conversations --

A. Yes.

Q. -- in August?

A. Yes.

Q. So you didn't fire him in August; you just started recording the conversations?

A. Yes, I want to see --

Q. And would you listen to those recordings?

MR. SIMON: Hold on. Let him finish his answer.

MR. LANE: He said yes.

MR. SIMON: No, no, he didn't finish his answer. Finish your answer.

MR. LANE: Could you read back the last answer.

(The record is read back by the reporter.)

THE REPORTER: "QUESTION: So you didn't fire him in August; you just started recording the conversations?

"ANSWER: Yes, I want to see -- "

A. No, I answer this: I not fire him

in August.

Q. You didn't fire him in August?

A. I don't fire him in August.

Q. You started recording his conversations in August?

A. Correct.

Q. You started watching him and recording his conversations?

A. Exactly.

Q. Do you remember coming to court in August of 2013 on the Alkhatib case?

A. 2013?

Q. Yes.

A. Yes. What month?

Q. August 2013.

MR. SIMON: Which court are you referencing?

Q. Do you remember coming to Federal Court in Brooklyn --

A. In Brooklyn, yes.

Q. -- with Bruce Minsky on the Alkhatib case?

A. Yes, yes. And he was there too.

Q. Do you remember bringing Julio

Estrada with you?
A. Yes, he was there.
Q. Why did you bring Julio Estrada to court?
A. Because he tried to explain to the court what's the finance.
Q. Did Julio Estrada say anything to the court that day?
A. That was in a meeting between the court's secretary.
Q. I want to be really clear here.
A. Yes.
Q. I was there. I don't want you to tell me anything that Julio Estrada or you said directly to Magistrate Gold. I don't want to know that.
A. Okay.
Q. That was a confidential conversation as part of a negotiation, so I don't want to know that, and I'm not asking you to tell me that.
A. Okay.
Q. But why did you bring Julio Estrada to the court that day?

Mamdoh Eltouby

A. Testimony. Testament about the finance what he did. I tell him, "You see what you did to me?," you know. Then he tell me, "I go with you to court and I testimony." I don't know if this was a trial that he can come in and talk. There was no trial.

Q. So in August of 2013, you were aware that there was at least one lawsuit filed against you related to Julio Estrada?

A. Yes, regarding the financing.

Q. Did anybody tell you that you had to preserve the recordings that you were then creating?

A. No.

Q. Nobody told you to preserve the recordings that you were making?

A. No. "Preserve," this mean to?

Q. Meaning, don't erase the recordings.

A. Oh, no.

Q. Nobody told you that?

A. No.

Q. And so all of the audio recordings that you started making in August of 2013 were

erased within eight days of the recording?
A. Correct.
Q. Because that's the way the machine was programmed?
A. That's the way this is --
Q. And you didn't take any steps --
MR. SIMON: Note my objection to the form of the question.
Q. You understood that? You understood when I said it erased it within eight days, because that's the way the machine was programmed?
A. That's the way the machine programmed, yes.
Q. And you didn't take any steps to contact the manufacturer to see if you could keep the recordings from being erased?
MR. SIMON: Note my objection to the form of the question. That was asked and answered.
MR. LANE: That's not an objection. He can still answer it.
MR. SIMON: I mean you're misrepresenting, because he testified

what happened to that device. I think you're misrepresenting what he said.

Q. If you don't understand my question, you will ask me to rephrase it; correct?

MR. SIMON: I just want my objection on the record.

MR. LANE: Your objection is on the record.

MS. LINDERMAYER: I don't think you pointing out inconsistencies in the testimony is appropriate.

MR. SIMON: I'm not pointing out inconsistencies in the testimony. I'm pointing out inconsistencies in what you're saying.

MR. LANE: Your objection is noted.

MR. SIMON: My objection is on the record.

Q. If you don't understand my question, you will ask me to rephrase it; right?

A. Go ahead.

Mamdoh Eltouby

Q. Okay. After you were in court in August of 2013, in federal court --

A. Yes.

Q. -- with Julio Estrada on the Alkhatib case, did you do anything after that to figure out how to prevent the recordings from being erased?

A. No.

Q. Okay, that's it. And nobody told you that you should try to keep the recordings from being erased?

A. No.

Q. Did you ever tell anybody, obviously not your employees -- or, I don't know, maybe your employees -- that you were recording Julio Estrada's conversations?

A. He know.

Q. He knows?

A. Yes.

Q. But did you tell anybody else that you were recording Estrada's conversations?

A. He knows.

Q. Did you tell anybody outside of the dealership?

A. No. Everybody see in the monitor, this is a mike next to that particular camera.

Q. Did Bruce Minsky ever visit you at the auto dealership at New York Motor Group?

A. No.

Q. He was never inside the trailer at New York Motor Group?

A. No.

Q. Did you have a tech guy who took care of the computers at New York Motor Group?

A. Take care of the computer, or the camera system?

Q. Was there somebody who maintained the camera system?

A. Yes.

Q. Who was that?

A. Was some company put in camera system. I can get it for you.

*RQ MR. LANE: We are going to leave a blank in the transcript for the name of the company that maintained the camera system and we are going to serve this written request, among others, on Mr. Simon and Mr. Minsky, and they will have you fill in the blanks to the best of your ability.

INSERT: ____

MR. LANE: Can we keep going here?

MR. GROSSMAN: Can I ask something, counsel?

MR. LANE: Off the record.

(A discussion is held off the record.)

Q. Do you know a customer named Bobby Muniz, Robert Muniz?

A. Yes, yes, I remember.

Q. Did he come back to New York Motor Group and complain about Julio Estrada to you?

A. No. He's even his friend. He's Puerto Rican, like him, and every time he come in they drinking together.

Q. Every time?

A. Yes.

Q. Did Bobby Muniz ever come in and complain to you?

A. He tell me -- every time he come, he hug him and they drink together, whatever, you understand. And then he tell me, I have to make the payment down.

Q. Were you aware that Julio Estrada was drinking during finance transactions?

A. Not really.

Q. You were not aware of that?

A. No.

Q. But did Bobby Muniz tell you that Julio Estrada was drinking during the financing transactions?

A. No. I see them, they drinking together.

Q. You saw Julio Estrada --

A. I see Julio Estrada.

Q. -- and Bobby Muniz drinking together?

A. Yes. That was the times he came, yes, I see this.

Q. When did you see that?

A. He come in one time and he want to, he have a problem with the car, he want to fix it under the warranty and -- but he adds some stuff, you know?

Q. When was this?

A. That was a long time.

Mamdoh Eltouby

Q. Was it in 2013?

A. Yes, in the beginning.

Q. It was at New York Motor Group --

A. Yes.

Q. -- that you saw Bobby Muniz drinking with Julio Estrada in Julio's office?

A. Yes, but he not drinking, drinking to make him drunk. It's like two or three shots or something.

Q. Was Angel Santiago with them?

A. No.

Q. Did you drink with Julio Estrada and Bobby Muniz?

A. I not drink alcohol, sir.

Q. After you saw that, did Bobby Muniz ever come back and talk to you alone?

A. No. He coming, time he come in always to the place --

Q. Would he come back often?

MR. SIMON: Let him finish his answer.

A. Well, he -- he always come into the place, hang out with him. Construction guy, I think --

Mamdoh Eltouby

Q. You're not answering my question.

A. Yes.

Q. I asked you did Bobby Muniz ever come back and talk to you without Julio Estrada?

A. One time he come in and he was waiting for him. He tell me, I bring somebody to co-sign me to get my interest rate lower.

Q. Lower?

A. Yes.

Q. Okay. Did he tell you that Julio promised him he could refinance?

A. He tell him, yes.

Q. Did you direct Bobby Muniz to go speak to Shawn at Hillside?

A. When he give me a lot of call, you know, I tell him, listen, if you have somebody that really have a good credit, we can do it by ourselves, we can do it through Planet Motor Cars.

Q. Through Planet Motor Cars or through Hillside?

A. No, Planet Motor Cars.

Q. Do you remember what year that

was?
A. That was all of 2013.
Q. 2013?
A. Yes.
Q. I thought Planet Motor Cars was no longer doing business in 2013?
A. Yeah, it's until July.
Q. Okay. So did you tell him to go see Shawn?
A. Yes.
Q. You told Bobby that he was to go see Shawn --
A. Yes.
Q. -- about refinancing?
A. Because he is -- you know, because he needing this, he give runaround all the time.
Q. You believed that Julio Estrada was giving him the runaround?
A. The runaround, yes.
Q. After Bobby Muniz told you this, then you told him to go to Hillside? Did you talk to --
A. Not Hillside.

Mamdoh Eltouby

Q. Oh, to go see Shawn. Did you talk to Julio Estrada about Bobby Muniz's loan?

A. He tell me he have no credit. The credit, his credit, is still bad. Because he not doing --

Q. But did you ask Julio Estrada if he promised Bobby Muniz that he could refinance back at New York Motor Group?

A. I not -- I not really remember.

Q. You don't remember if you asked Julio Estrada?

A. I don't remember.

Q. Did you ever ask Julio Estrada if he ever promised anybody that they could come back and finance at New York Motor Group?

A. He knows very good.

Q. He knows what?

A. He knows this, he not supposed to do this.

Q. He knows he's not supposed to do that?

A. Yes.

Q. But did you ever talk to him about it? Did you ever say to him --

A. In the beginning, I told him.

Q. But you have been saying that you started hearing really wild things in the summer of 2013; is that correct?

A. In August?

Q. Yes. And did you ever say to Julio Estrada, "Why are you promising people that they can come back and refinance in six months?"

A. I explain you yesterday, to Mr. Keshavarz. I tell him this is usually, you know, usually, but this is the customer after -- not six months, six months is too close. It's about eight months at least when he holding the loan and paying in time, and paying in time. Then his credit score is jumping.

Q. So you believe it's possible for people to come back after eight months and refinance a loan?

A. You don't need to come back. He can go to online -- E-Loan-dot-com, you know -- and he write his information, and the E-Loan, you see this is existing loan and paying and

Mamdoh Eltouby

fine and everything. He take him with lower interest rate. You don't need to come in to us.

Q. Do you know who is running a dealership at the old location of New York Motor Group now?

A. No.

Q. On Northern Boulevard, you don't know who has the dealership?

A. I don't know who has that, no.

Q. Yesterday you testified that you left the hard drive --

A. Yes.

Q. -- that had the video and audio recordings on it with the camera system at the location of New York Motor Group?

A. Right.

Q. And you left it there because the incoming tenant was going to use it?

A. I don't know is the incoming tenant or not. I left it. It doesn't make any sense for me.

Q. Who owns the property?

A. This is some landlord, his name

is Paul. Paul -- it's the landlord, you know. Because I wasn't paying him rent, you know. What's his name? Paul? I get you the name.

*RQ MR. LANE: We will leave a blank space in the transcript for the name and the contact information of the landlord of 60-20 Northern Boulevard, where New York Motor Group was previously in operation.

INSERT: ____

INSERT:____

THE WITNESS: Can you write for me all this? Because I cannot remember.

MR. LANE: All of this is going to be followed up with formal demands to your attorneys, both Mr. Simon and Mr. Minsky.

THE WITNESS: All right.

MR. LANE: Thanks. Because we don't want there to be any confusion. We want to make it perfectly clear what we're asking for.

Q. Mr. Eltouby, have you ever been prosecuted for failure to pay taxes?

Mamdoh Eltouby

A. Prosecuted, no.

Q. Have you ever been charged by any state or federal agency for failing to pay taxes?

A. No.

MR. SIMON: Him personally?

Q. You personally.

A. No.

MR. SIMON: Note my objection to the relevancy of the question.

Q. Has Planet Motor Cars ever been charged for failure to pay taxes?

A. Planet Motor Car?

Q. Yes.

A. This is, I think it's 2001 or -- yes, or 1989 or 2000, something like this. It was not failure; this was incorrect taxes only.

MR. SIMON: Note my objection to the relevancy.

MR. LANE: I'm sorry, I have to respond. You are wondering what is the relevancy of charges against Planet Motor Cars for not remitting the proper amount of taxes to the state of New York?

MR. SIMON: Back in 2001, he said. You said "ever" -- and this transaction that you're complaining about was 2012, 2013.

MR. LANE: I would like the record to note my laughter.

MR. SIMON: Let the record reflect my chagrin.

Q. So it's true, then, that New York has claimed that Planet Motor Cars was not paying the proper amount of taxes on the car sales?

A. New York Motor?

Q. That Planet Motor Cars was charged with --

A. Planet Motor Cars.

Q. -- was charged with not paying the proper amount of taxes on the sales?

A. Yes, proper amount on the taxes. But they corrected already.

Q. You corrected it?

A. Not me. This corrected, the

company corrected.

Q. Planet Motor Cars corrected?

A. Yes. Between the finance, the accountant and the Department of State, and was finished the problem.

Q. Do you remember the amount of money that New York State demanded from Planet Motor Cars?

A. Not really.

Q. Was it more than $500,000?

A. I don't remember.

Q. Is it true that the demand was that Planet Motor Cars was not paying the proper amount of taxes on the sales of automobiles?

A. I don't remember. If you want this, you have to get the charge record from the court or something. I don't know.

MR. SIMON: Is this referencing sales tax or income tax?

MR. LANE: I don't know.

Q. Was it sales tax or income tax?

A. I don't know.

Q. Were you arrested at that time?

Mamdoh Eltouby

A. What?

Q. Were you arrested related to this?

A. No, no, it have nothing to do with me. It's the company only.

Q. You were not personally arrested?

A. Not personally.

Q. Have you ever been arrested for a crime?

A. No.

Q. Have you ever been convicted of a crime?

A. No. Violation maybe.

Q. What violation?

A. Violation.

Q. What kind of violation?

A. Violation like, you know, not even misdemeanor.

Q. Like what? Tell me the violations you have been charged with.

MR. SIMON: Well, under the civil rights law, if he has not been convicted of a crime I am going to direct him not to answer.

MR. LANE: I would love it if you

would cite me where in the civil rights law I can't ask this question at a deposition.

MR. SIMON: You can't ask him if he has ever been arrested.

MR. LANE: I'm not hiring him; I'm asking him questions in a deposition. Can you tell me what law prevents me from asking that question in a deposition?

MR. SIMON: Yes. The New York State civil rights law.

MR. LANE: Could you tell me that law and cite it? I don't know what you're talking about. This is a deposition. I'm not a potential employer.

MR. SIMON: You're asking him if he's ever been arrested?

MR. LANE: Yes. It's a deposition.

MR. SIMON: I'm just saying that I'm not going to permit that question.

MR. LANE: He already answered it.

Mamdoh Eltouby

MR. SIMON: No further inquiry on that. I'm asserting my client's rights.

MR. LANE: Okay.

MR. SIMON: You can ask him if he has ever been convicted of a crime.

MR. LANE: I have. And he said he hasn't. But now he says that he has possibly been convicted of violations, and so I would like to know what violations he has ever been convicted of.

THE WITNESS: Like peeing in the street.

Q. Like what?

A. Peeing in the street.

Q. Have you been charged with public urination and convicted of public urination?

A. Sixty dollars, yes. I pay $60.

Q. You have been convicted of public urination?

A. Sixty dollars.

Q. When was that?

A. This is like maybe 20 years ago.

MR. SIMON: Off the record.

Mamdoh Eltouby

(A discussion is held off the record.)

Q. Are there any other violations that you have been convicted of?

A. No.

Q. When were you convicted of public urination?

MR. SIMON: He said he was arrested. We don't know if he was convicted. They may have had a plea bargain.

MR. LANE: You need to stop changing your client's testimony.

A. It's a ticket.

Q. I know. When were you ticketed?

A. I don't remember.

Q. Did you pay the fine?

A. Yes, $60, I paid.

Q. Was that in Queens County?

A. In Queens, yes.

Q. You don't remember the year?

A. No.

Q. I just want to make sure I understand. You do believe that, back in 2001, Planet Motor Cars paid the taxes that were owed to New York State after the state charged Planet Motor Cars with failing to pay the full amount of taxes?

A. Yes. That was I think with the accountant, because it was the state and they finish.

Q. Which accountant was that; do you remember?

A. Mr. Youssef.

Q. It was Mr. Youssef?

A. Yes.

Q. Where would the money to pay the state have come from?

MR. SIMON: Note my objection to the relevancy. You can answer.

A. I don't know.

Q. You don't know?

A. No.

Q. Did you pay it personally?

A. Me personally? No.

Q. It would have come from the accounts of --

A. From the company.

Mamdoh Eltouby

Q. -- Planet Motor Cars?

A. From the company, yes.

Q. Mr. Eltouby, I believe yesterday at one point you had said that Julio Estrada was a good F&I representative?

A. Yes.

Q. Why did you think he was a good F&I representative?

A. When he sit down and do the deals, when he do the straight deals, he's very good F&I. He understand very good the finance. He structure the deal very good and explain everything to the customer, and tell the customer, "You are under the camera," you know. And "If you sign here, if you was all the knowledge and brought -- bring your driver's license, I see what it says for the customer and I want sign you exactly what's your driver's license, sign the contract."

And then the customer ask, he ask in the end of all the deal, "you are all satisfied, you are good? Tell my boss that you are good, nothing wrong." That's in the beginning.

Mamdoh Eltouby

Q. So when you hired him, you hoped that he was going to make you money?

A. I, you know, I hired him F&I, you know, and finance manager. But he is a little bit advanced, because he have an experience with banking business. He knows very good every bank, what he buying, and what is structure for the bank.

Q. Do you know if he had specific contacts at any bank?

A. No.

Q. So when you hired him, is it true that you hoped that he was going to be able to make --

A. To be good.

Q. -- to close deals and make money for the dealership; is that true?

A. And make money for himself. He come in crying for me he have seven kids.

Q. But you hoped that he was going to make money for the dealership as well; is that correct?

A. Yes.

Q. Looking back now, is there

Mamdoh Eltouby

anything you would have done differently --

MR. SIMON: Note my objection.

Q. -- in terms of hiring Julio Estrada and allowing him to work at New York Motor Group?

MR. SIMON: Note my objection to the form of the question. You can answer.

Q. If you understand the question, you can answer: Is there anything you would have done differently?

A. I don't understand.

Q. You don't think so?

A. I don't understand what you say.

Q. Now looking back to the end of 2012, when you hired Julio Estrada, as you think about it now here today would you do it differently if you could?

A. Sure.

Q. Would you still hire Julio Estrada today?

A. Absolutely not.

Q. So you feel like you probably should not have hired Julio Estrada?

MR. SIMON: Objection to the leading nature of the question.

A. I don't know this.

Q. Do you feel that you should have hired Julio Estrada now?

MR. LANE: Asked and answered.

A. No.

Q. Do you feel that you should not have hired him?

MR. SIMON: I'm directing him not to answer. You're asking him to speculate on what he should have done. Why don't you ask him what he did? He did answer your question. I just want to move forward.

MR. LANE: It's pretty clear that -- let me just rephrase the question.

Q. So that it's perfectly clear, correct me if I'm wrong, but I think what I'm hearing you say is that you would not have hired Julio Estrada today?

A. Yes.

Q. Today --

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A. Yes.

Q. -- today, you would not hire Julio Estrada, knowing --

A. Absolutely not.

Q. -- what you know now?

A. Absolutely not.

Q. And looking back at December of 2012, you feel like you should not have hired Julio Estrada at that time?

A. Yeah, I feel this is -- you know I trust him, whatever he tell me, and I know very good he have a problem. When you are in the probation, if you make a small mistake then you go to jail, you know. I don't believe that the guy going to be suicide himself like this, and he have seven kids in the street, you know, so going to take care of the kids when he is in jail, you know? This is common sense. I never thinking he's going to do this, never.

Q. Okay. You knew he was on probation and you thought that if he was on probation, it would keep him honest?

A. Exactly. He have to be straight, more than straight, because if he do anything, he going to be put in jail right away.

MR. LANE: All right. I'm going to go off the record for a second.

(A discussion is held off the record.)

oOo

MR. LANE: I'm going to pass the witness to Ms. Lindermayer.

THE WITNESS: Lindermayer?

MS. LINDERMAYER: Yes.

THE WITNESS: She's the lawyer for which case?

MS. LINDERMAYER: I'll introduce myself.

EXAMINATION BY MS. LINDERMAYER:

Q. Mr. Eltouby, I'm Ariana Lindermayer. I'm one of Shahadat Tuhin's attorneys.

You testified earlier that a lot of customers started complaining by August of 2013. When was the first time that you heard about a customer complaining about Julio Estrada?

Mamdoh Eltouby

A. The first customer is Alkhatib.

Q. When was that?

A. This is in 2013.

Q. Which month?

A. August.

Q. You had testified that you contacted him about this problem before he filed a lawsuit?

A. Yes, I did.

Q. That lawsuit was filed around April of 2013, so if you had contacted him before then --

A. Yes.

Q. That would have been in the spring of 2013 that you contacted him?

A. Yes, I contacted him. And the only problem in this time, you know, from Julio -- and this is the reason I tell him, listen, this is not the way this work. Let them know. I go with you to the court, and testimony I never tell the guy anything wrong.

Q. Just to clarify: Are you saying that you knew about this first complaint in spring of 2013?

A. Yes.

Q. Before April of 2013, when the lawsuit was filed?

A. Yes.

Q. But you didn't fire --

A. Oh, hold on a second, wait a second, going too fast. So before the lawsuit filed?

Q. That's what you testified to earlier today. You testified under oath that you contacted Mr. Alkhatib about his complaint before he filed the lawsuit.

A. I know. But when he complained, he was calling the company and complain. We tell him if he don't like the deal, come over, we give you all of your money and --

Q. I'm just asking --

MR. SIMON: Let him finish.

MS. LINDERMAYER: He's not answering my question.

Q. I'm just asking you about the time frame. I'm not asking you about what you discussed with him.

MR. SIMON: You're asking him

about his conversation.

MS. LINDERMAYER: No, I'm not -- I'm just asking about the time frame.

Q. I just want to know when you first learned that Mr. Alkhatib had a complaint about Julio Estrada.

A. I don't remember.

Q. You testified earlier that it was before he filed a lawsuit.

A. Yes. But I don't know what is the time frame.

Q. Well, I'm telling you the lawsuit was filed around April of 2013.

A. Okay.

Q. So that was the first complaint that you received?

A. Yes.

Q. For the consumers who complained, did you ever buy back the loan from the lender?

A. Yes.

Q. For which consumers?

A. I don't remember exactly, but a couple of them. One of them is a Pennsylvania customer. He see also with the loan, he don't like it, and he call me from over there and I tell him, "No problem." This is after he take the car one week -- not one month. I tell him, okay, come over, I void the deal with M&T Bank, I send a check, and I pay off the deal. I take the car from him, the car, and then we finish.

Q. Do you remember that customer's name?

A. I can get you the customer name exactly.

*RQ MS. LINDERMAYER: We will leave a blank for that customer's name.

INSERT: ____

THE WITNESS: I can ask him.

Q. Any other customers from whom you purchased back the loan from the lender?

A. Yes. Another lady also in Long Island for a Nissan Ultima.

Q. Which lender was that?

A. It was also M&T. And they can also ask Jim Erickson about this loan. I tell him flat cancellation, and I did flat cancellation, and I void it.

Q. Did you inform M&T at the time --

Mamdoh Eltouby

A. Yes.

Q. -- that you were canceling it because of fraud?

A. No, no.

Q. Or because --

A. Because --

MS. LINDERMAYER: Let me just finish the question. I'll rephrase it.

Q. Why did you explain to M&T that you were repurchasing this loan?

A. Because the customer also did not like the, you know, the way for the financing. He don't like the number. Sometimes a customer wake up after one week, after two weeks, after one month, after two months. But when they wake up late, we cannot do anything.

Q. I think you have testified before that you knew that Julio Estrada was defrauding people; correct?

A. He's not frauding people.

Q. Didn't you say that you started receiving a lot of complaints from consumers that Julio Estrada was defrauding them and --

A. I never say "defrauding."

Q. That he was lying to them?

A. I never see this. You put something in my mouth now.

Q. Okay, well, I thought that you testified earlier that --

A. This is my --

Q. Let me finish my question.

I thought you were testifying earlier that by August 2013, you understood that Julio Estrada was lying to some of your customers, and then that's why you started out recording him?

A. This is the DLR. Do you see this here?

Q. I'm not asking about that, Mr. Eltouby. I'm just asking whether by August 2013 you understood, or do you understand now, that Julio Estrada lied to some of your customers about the financing terms?

MR. SIMON: Note my objection to the form of the question.

A. Which customers?

Q. As we sit here now, do you believe that Julio Estrada lied to any of your customers at any time?

A. He is not lying to my customers. Lying to customers outside.

Q. It's a yes or no question, Mr. Eltouby. In acting as F&I for New York Motor Group, do you believe today that Julio Estrada lied to any of your customers?

A. Yes, sure.

Q. Did you ever purchase back loans from customers who claimed that Mr. Estrada lied to them?

A. I did say yes.

Q. Did you tell the lender that there was a -- you said that they did not like the loan?

A. They don't like the loan, but I never say that's fraud.

Q. Mr. Tuhin purchased the loan on June 22, 2013?

MR. SIMON: You mean, the vehicle?

MS. LINDERMAYER: Yes, the vehicle, thank you.

Q. Did your daughter tell you that he returned two days later, on June 24th, and

spoke to her about returning the vehicle?
A. No.
Q. Do you have access to the deal files for the customers at New York Motor Group?
A. Yes.
Q. Do you ever review them?
A. Yes.
Q. What do you review them for? What are some of the things that you would be looking for?
A. I see if everything is correct.
Q. Do you ever review the credit application, the loan application that is submitted through DealerTrack?
A. Yes.
Q. Did you ever view Shahadat Tuhin's deal file?
A. Yes.
MS. LINDERMAYER: I would like to have this marked as Exhibit 16.
(Document is marked as Plaintiff's Exhibit 16 for identification, as of this date.)

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Q. I'm going to show you Exhibit 16, which is an application that Mr. Tuhin filled out at your dealership, which was produced to us by your attorney. Do you recognize that document?

A. Okay.

Q. Do you recognize that document?

A. Yes, application.

Q. An application; and which dealership does it list there?

A. New York Motor Group.

Q. Have you ever seen this particular application before?

A. Usually I look for the application in the DealerTrack.

Q. So then what is that application? What does New York Motor Group use it for?

A. This is, he wrote the application here to submit it to the DealerTrack. This is, all of this here is in DealerTrack, that he can run in his credit.

Q. Does that particular document, that handwritten application, go into the deal file?

A. Probably, yes.

Q. Can you just read to me what it lists there for the salary of Mr. Tuhin?

A. It's $25,000.

Q. What does it list as his job title or his job position?

A. Driver.

MS. LINDERMAYER: I would like to have this marked please as Exhibit 17.

(Document with the letterhead of DealerTrack, referencing Shahadat Tuhin, is marked as Plaintiff's Exhibit 17 for identification, as of this date.)

(A discussion is held off the record.)

Q. Mr. Eltouby, can you explain to me what this document marked as Exhibit 17 is?

A. Okay.

Q. Can you please explain to me what that document is?

A. This is application for DealerTrack.

Q. For which customer?

A. Tuhin.

Q. Have you seen that application before?
A. Yes.
Q. For Mr. Tuhin specifically?
A. Yes.
Q. Did you see it in the deal file?
A. Yes.
Q. Was it the same deal file that held that handwritten application?
A. I believe so. I don't take everything specific.
Q. I just want to know --
A. Just only if the bank call and ask and say something different, then I'm starting --
Q. Mr. Eltouby, that's not a question that I'm asking you right now. What I'm asking you is if you have ever seen that application.
A. No.
Q. If you don't know, you can say that.
A. Not really, no.
Q. Do you recall ever seeing

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Mr. Tuhin's application?

A. No, I don't see it exactly.

Q. But you testified earlier that you did look at his deal file.

A. I looked at the deal file, but I don't looking for every specific paper.

Q. Can you read what his salary is listed on that DealerTrack application?

A. It's $6,500.

Q. And that is per how often? Is that his salary per year, per month, per week?

A. I don't know, it's not marked. Oh, monthly.

Q. And what is his job position listed as?

A. What's this? Dis --

Q. Dispatcher?

A. Dispatcher, yes.

Q. So is the information in the DealerTrack application different than the information in the handwritten application marked as Exhibit 16?

A. What is --

Q. I'm just asking you, yes or no, if

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the information is different?

MR. SIMON: Note my objection to the form of the question. I think the document speaks for itself.

Q. Do you agree that the information in Exhibit 17 is different than the information in Exhibit 16?

A. Yes.

Q. And you had access to both of those documents?

A. Not really. If they have a problem only.

Q. But did you have access to them?

A. If they have a problem, I go and look specific.

Q. So you don't routinely review deal files to make sure that all of the information is consistent?

A. No. I looking for the contract, you know, and the funding is correct, and the downpayment is correct, you know. This is my part.

Q. Did you in your capacity as owner of New York Motor Group routinely review deal files to make sure that the salary information being provided on the applications was consistent with the salary application that was given to you by the consumer?

A. Usually --

Q. It's a yes or no question. Did you routinely do that?

A. No.

Q. Did any of the lenders ever reject any applications because the numbers seemed suspicious or they suspected fraud? Do you remember that ever happening?

A. I don't know, because I'm not F&I. I'm not the finance manager.

Q. So if a lender rejected an application because it was fraudulent, you don't think that you would have known that?

A. This is, we never had fraudulent.

Q. I'm sorry, are you saying that this never happened?

MR. SIMON: Note my objection to the form of the question.

A. Never --

MR. SIMON: Hold it.

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MS. LINDERMAYER: Richard, you noted your objection.

MR. SIMON: You're saying, did a lender reject an application?

MS. LINDERMAYER: I'm having this conversation with the witness.

MR. SIMON: No. It's a question, it's not a conversation.

Q. Mr. Eltouby, do you understand my question?

MR. SIMON: I'm directing him not to answer.

MR. LANE: Specifically on what grounds?

MR. SIMON: The issue, you said they rejected. You mean, after the transaction?

MS. LINDERMAYER: That's not a grounds.

MR. LANE: That's objection to form.

Q. Mr. Eltouby, do you understand that if I'm asking a question and you don't understand what I'm saying, that you should let me know that, so I can rephrase it in a better way?

A. Okay.

Q. In your time as owner of New York Motor Group, did a lender ever reject an application because of fraud?

A. No.

Q. No, it never happened?

A. Because we never do a fraud.

Q. So a lender never rejected an application because of fraud?

A. We don't have a fraud. We never submitted anything to a bank, fraud.

Q. Okay. Do you recall the protest that was organized outside of New York Motor Group? I believe there were two protests. Do you recall this?

MR. SIMON: He already said this. It was asked and answered yesterday.

A. I was not there --

Q. Did you testify yesterday --

A. -- first time.

Q. Were you at the second protest?

A. Second time, I called the guy and

I tell him, what's the problem.

Q. I'm going to get there, but I just want you to answer the question that I have asked. Did you arrive at New York Motor Group after the second protest began?

A. I believe yes.

Q. Did you drive past the protesters in your car?

A. No. I come in from the one-way street. The street is one-way.

Q. Were the protesters near the entrance of the dealership lot when you pulled into it?

A. No, it was in front of the dealership.

Q. Did you try to run over the protesters with your car?

A. Are you kidding me? Are you serious?

Q. Yes, I'm serious.

A. I'm not stupid like this.

Q. I'm just asking whether you did that.

A. You're insulting me right now.

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Q. I'm just asking you a question.

A. No, you're insulting my intelligence.

Q. Well, I'm sorry you feel that way, but I'm allowed to ask these questions and you're required to answer them.

A. I'm not street guy to do this.

Q. So is the answer --

MR. SIMON: Just answer the question.

A. No.

Q. Do you have a temper, Mr. Eltouby?

A. No, but you're already asking me something insulting my intelligence.

Q. Okay. I'm asking you a question now --

A. I'm engineering degree, like you have a degree.

MR. SIMON: Just answer the question.

Q. I ask the questions here and you answer them. Do you have a temper, Mr. Eltouby?

A. You're insulting me right now.

Q. I'm just asking.

MR. SIMON: I object to the form of the question and the relevancy of asking him if he has a temper.

MS. LINDERMAYER: Okay. We have a claim against your client for battery, and so this is very relevant to that claim.

MR. SIMON: Don't answer that question. If he has a temper or not, that's ridiculous.

MS. LINDERMAYER: What are the grounds for that objection?

MR. SIMON: Because I think it's a stupid question.

MS. LINDERMAYER: Well, that is not a legally viable objection.

MR. SIMON: Put down stupidity. Insofar as the question is concerned.

MS. LINDERMAYER: Thank, you, Richard.

Q. Did you ever direct your employee to spray water on the protesters?

A. No.

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Q. Julio Estrada told us that he was there and you directed Juan to spray water on the protesters when he was watering the cars.

MR. SIMON: Objection to the form of the question.

A. Lying.

Q. Was your daughter at the protests? Do you remember her being there?

A. No, she's inside the office.

Q. But she was there on the days of both protests?

A. She's there.

Q. What was Nada's title?

A. She's already making paperwork, DMV, you know.

Q. What was her title, though?

A. Hmm?

Q. What was her title?

A. She's secretary and doing everything.

Q. Who was in charge when you were not there?

A. In charge?

Q. Yes. Who was in charge? Who

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would people report to if you weren't there?

A. She call me and tell me.

Q. Would people report to Nada if you weren't there?

A. She called me and tell me, "Dad, this is the problem, this and this."

Q. So if you were not there, the people would report to Nada?

A. Yes.

Q. And she supervised them?

A. She not supervise.

Q. Last question.

There were a lot of dealerships on Northern Boulevard. How were you able to compete with them; I mean, what sort of practices did you use to have customers come to your dealership instead of the many other dealerships on Northern Boulevard?

A. I don't know how to answer this question.

Q. For example, did you advertise cars low, so that consumers would find your dealership attractive?

A. No, I advertised like everybody

used to, everybody advertise the same.

Q. But you testified earlier that you never intended to sell the cars at the price they were advertised; right?

A. No, I never said this.

Q. You didn't say that? Okay.

MR. SIMON: She was asking the question what makes your dealership special.

MS. LINDERMAYER: It's all right, Richard, I don't need an interpreter, thank you.

MR. SIMON: You're not giving him a chance to answer the question.

MS. LINDERMAYER: Would you please read that back?

(The record is read back by the reporter.)

MS. LINDERMAYER: We'll let that go.

MR. BRENER: Can we take fifteen minutes?

MR. LANE: Off the record.

(A recess is taken from 1:35 P.M.

until 2:00 P.M.)

oOo

EXAMINATION BY MR. BRENER:

Q. Good afternoon, Mr. Eltouby.

A. Good afternoon.

Q. My name is Robert Brener. I represent Santander Consumer.

A. Yes.

Q. We've met before; right?

A. Yes.

Q. I just have some questions for you. I will try not to repeat the questions that have been asked. There may be a few background questions that might have been asked before, but indulge me, and I will move on to the important stuff.

A. Okay.

Q. Just a couple of background questions with respect to Planet Motor Cars.

A. Yes.

Q. When was Planet Motor Cars first established?

A. 1998.

Q. And it ceased doing business at

what point?

A. As a dealer, car dealer.

Q. And continued to do business today?

A. No.

Q. When did it cease doing business?

A. I think, 2013.

Q. Planet Motor Cars Inc., had an address of 160-14 Hillside Avenue, Jamaica; correct?

A. Correct.

Q. It was a car dealership and it sold cars?

A. Yes. Sell cars.

Q. Planet Auto Group --

A. Yes.

Q. Planet Auto Group has an address of 434 East Jericho Turnpike in Huntington Station, New York?

A. Correct.

Q. When was Planet Auto Group Inc., created?

A. 2005.

Q. What was the purpose of creating

Mamdoh Eltouby

Planet Auto Group Inc.?

A. This is a different identity, you know, this is on Long Island. It's about 30 miles away from the other dealership.

Q. Is it a car dealership as well?

A. Yes, car dealership, sell cars.

Q. Is it still in business?

A. Yes.

Q. And it continues to sell cars today?

A. Yes.

Q. Did Planet Auto Group Inc., have any ownership interest in Planet Motor Cars?

A. Not really, no.

Q. Was there any business relationship between the two -- Planet Auto Group and Planet Motor Cars?

A. It's two different identities.

Q. Two separate identities?

A. Correct.

Q. One did not own the other; is that correct?

A. Correct.

Q. One was not a division of the

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other?

A. Correct.

Q. One was not an affiliate of the other?

A. Correct.

Q. Did it overlap in any way with respect to employees?

A. No, no, there's no similar.

Q. Do they have similar owners?

A. Similar owners, yes.

Q. Who is the owner of Planet Auto Group Inc.?

A. Mamdoh Eltouby.

Q. You?

A. Yes.

Q. One hundred percent?

A. No. This is Mona Eltouby.

Q. Mona?

A. Yes.

Q. What is the relationship?

A. Sister.

Q. Your sister?

A. Mm-hmm.

Q. How much ownership interest does

she have in Planet Auto Group Inc.?
A. About 25.
Q. And the rest is yours?
A. Mm-hmm.
Q. When Planet Motor Cars was in existence, who was the owner of Planet Motor Cars?
A. Mohamed Masaud. M-A-S-A-U-D.
Q. You're not related to him?
A. No, we're friends.
Q. Did you have any ownership interest in Planet Motor Cars --
A. No.
Q. -- at any time?
A. No.
Q. Did anybody else have any ownership interest in Planet Motor Cars, other than him?
A. No.
Q. You were employed by Planet Motor Cars?
A. Correct.
Q. In what capacity? What was your position?

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A. Position? Manager.
Q. Was that your title, or did you have another title?
A. Yeah, manager.
Q. At Planet Auto Group, did you have a title?
A. Yes. Owner.
Q. Owner?
A. Yes.
Q. Any other title at Planet Auto Group?
A. No.
Q. At Planet Motor Cars, were you an officer?
A. No.
Q. There was testimony before about signing as "president" --
A. Yes.
Q. Let me just finish. I just want to make sure that the testimony is clear.
Was that testimony concerning Hillside Motors, or was it regarding Planet Motor Cars?
A. No, it was regarding Hillside

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Motors.

Q. So you were not an officer of Planet Motor Cars?

A. No.

Q. You didn't hold the title of president at Planet Motor Cars?

A. No.

Q. Did you sign documents on behalf of Planet Motor Cars?

A. No. This is signed because I used to have a power of attorney from the owner.

Q. To sign on behalf of Planet Motor Cars?

A. Yes.

Q. Was that through the course of the existence of Planet Motor Cars?

A. Yes. Those by attorney, by lawyer. His name is Isaac. In Brooklyn, in Court Street.

Q. So during the course of Planet Motor Car's existence, you had power of attorney to sign on behalf of Planet Motor Cars?

A. Correct.

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Q. And that power of attorney was in writing? Was that a document in writing?
A. Yes. It was in -- by lawyer, it was did by lawyer, happen in lawyer's office.
Q. Aside from the lawyer involvement, the owner of Planet Motor Cars understood that you could sign on behalf of Planet Motor Cars?
A. Correct.
Q. Is Planet Auto Group a dealership or is it an owner/dealership?
A. No, it's dealership.
Q. And the dealership is called Planet Auto Group?
A. Correct. This is -- the number for the address, I not remember. You say 424 or 338?
Q. For which entity?
A. This is for Planet Auto Group.
Q. Well, you tell me what the address is.
A. It's 338, not 424. Used to be 424. It's the same.
Q. Just say the full address.
A. Same everything. 338 East Jericho

Turnpike, Huntington, New York 11746.

Q. Planet Auto Group is in good standing with New York State and it has all the proper licenses with New York State?

A. Yes, everything is okay.

Q. If you can briefly describe your job responsibilities. If you did this before, I apologize. Just briefly, what were your job responsibilities at Planet Motor Cars as manager?

A. Manager, yes.

Q. What were your responsibilities?

A. Buying cars. See everything was running correctly, you know. Supervise all the people who are working.

Q. Was the owner onsite at Planet Motor Cars or was he often not onsite?

A. Inside?

Q. Onsite, on the location, at the dealership?

A. No.

Q. So when he was not at the location, were you the guy in charge?

A. Yes.

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Q. You testified before that Planet Motor Cars had a business relationship with Santander Consumer; is that correct?

A. Correct.

Q. Was there an agreement executed between Santander Consumer and Planet Motor Cars with respect to retail contracts?

A. That was a grandfather, you know. He have agreement with City Financial and City Financial was bought. Santander bought it, and then we come in automatic as a customer with Santander.

Q. So Planet Motor Cars had a business relationship with City Financial --

A. Correct.

Q. -- in which City Financial would purchase retail contracts?

A. Yes. City Financial was, you know, bought from Santander.

Q. But prior to Santander purchasing City Financial, Planet Motor Cars had a relationship with City Financial --

A. Yes.

Q. -- in which City Financial from

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time to time would purchase retail contracts; is that correct?

A. Yes.

Q. And then when Santander purchased City Financial, the relationship continued?

A. Automatic, yes.

Q. But you did sign an agreement between Santander and Planet Auto Group at some point -- a dealer agreement -- is that correct?

A. I'm not remember. This is Planet Motor Cars.

Q. Did I say that incorrectly? Did I say Planet Auto Group?

A. Yes.

Q. I'm sorry. Planet Motor Cars.

A. Correct.

Q. Do you recall when Santander acquired City Financial? Do you recall that year?

A. Again?

Q. Do you recall what year the relationship with Planet Motor Cars went from being City Financial to Santander?

A. That was a long time. I don't

remember. But when Santander was coming in the market was ten years ago, maybe. Maybe ten, maybe more than ten years ago.

Q. Did Planet Auto Group ever have a relationship or does it have a relationship with Santander?

A. Yes.

Q. Planet Auto Group?

A. Mm-hmm.

Q. Is there a dealer agreement between Planet Auto Group and Santander?

A. It's the same exactly. That was also, this is grandfather, same thing.

Q. And it continues to this day?

A. I don't think so this is we have Santander anymore -- no, we don't have.

Q. Do you recall when the relationship with Santander and Planet Auto Group ceased?

A. Yeah, because we was not give enough contract.

Q. Is that why the relationship ended?

A. Yes, yes.

Mamdoh Eltouby

Q. Because Planet Auto Group did not have a sufficient number of contracts for Santander?

A. Correct.

Q. And as a result of having fewer and fewer retail contracts to sell, Santander was not interested in continuing business any longer?

A. Correct.

Q. And do you recall when that happened?

A. It was last year sometime or two years ago. I think two years ago.

Q. Did New York Motors ever have a relationship with Santander in which Santander would purchase retail contracts?

A. No.

Q. At any time?

A. No.

Q. How about Hillside?

A. No.

Q. Has there ever been a relationship with Santander and Hillside in which Santander would purchase retail contracts?

Mamdoh Eltouby

A. No, I don't think so.

Q. The relationship that Santander had with Planet Motor Cars and Planet Auto Group to purchase retail contracts; was that automatic? Was every retail contract purchased by Santander, or was it something less than automatic? Let me know if you don't understand. Do you understand what I was asking?

A. No.

Q. Was every retail installment contract at Planet Motor Cars assigned to Santander, every last one?

A. Yeah, every one. We have -- when we get, you know, approved, we send the contract and we go.

Q. Were there any other contracts assigned to other entities other than Santander?

A. Oh, yes. Capital One and M&T Bank.

Q. When did Planet Motor Cars first assign contracts to M&T Bank?

A. When?

Mamdoh Eltouby

Q. When did the relationship begin?

A. I think it is sometime in 2001, 2002, 2003.

Q. How about with respect to Capital One?

A. Capital One, same thing.

Q. Do you still do business with Capital One?

A. No.

Q. Do you still do business with M&T?

A. No.

Q. Do you recall if Planet Motor Cars executed dealer agreements with M&T Bank and/or Capital One?

A. Yes, you know, because the lawsuits.

Q. I'm sorry, say that again?

A. Because the lawsuits.

Q. What does that mean; "because the lawsuits"?

A. Because the problem with the lawsuits.

Q. I'm asking if there were dealer agreements between Planet Motor Cars and M&T

Bank, and Planet Motor Cars and Capital One, in which there was an agreement with respect to retail contracts?

A. Yes.

Q. So contracts existed --

A. Yes.

Q. -- between those entities --

A. Yes.

Q. -- and Planet Motors?

A. Yes.

Q. Did you sign those contracts; do you recall?

A. I believe, yes.

Q. And you signed on behalf of Planet Motor Cars?

A. Yes.

MR. BRENER: Let's me show you a document. We can mark this as whatever is the next exhibit.

(Document with letterhead of Santander Consumer is marked as Defendant's Exhibit A for identification, as of this date.)

Q. Mr. Eltouby, I'm going to show you

what has been marked as Defendant's Exhibit A. Can you take a look at that?

A. Yes.

Q. Have you seen that document before?

A. I never see it before.

Q. You have?

A. Never see it before.

Q. Never seen it before, okay. Well, the first four pages of this exhibit are signature cards or forms. Do you see those?

A. Yes.

Q. And then the fifth page says "Santander Consumer" up top. Do you see that?

A. Mm-hmm.

Q. And it says "Non-Recourse Dealer Retail Agreement." Do you see that?

A. Mm-hmm.

Q. You have not seen this document before?

A. No. The signature is not my signature. That's my son's signature.

Q. Hold on one second, let me just ask questions. Before, when we were discussing

Mamdoh Eltouby

the relationship with Santander and Planet Motor Cars, we talked about a dealer agreement.

A. Mm-hmm.

Q. Looking at this document, is that what you were referring to -- a dealer agreement? Forget what the substance of it is, but is that the dealer agreement that you were referring to?

A. Yes, it's the dealer agreement, yes. It say here "Dealer Agreement."

Q. But are you aware that there was a dealer agreement executed between Santander and Planet Motor Cars?

A. Correct.

Q. What is your understanding, generally speaking, of what the dealer agreement is for?

A. [No response.]

Q. Let me ask it more specifically: Are you aware that the dealer agreement sets forth certain rights and obligations on the part of Santander and on the part of Planet Motor Cars?

A. Yes. Part of Santander, and part

of New York Motor Cars.

Q. Okay. But the dealer agreement contains certain rights and obligations on behalf of the parties; is that your understanding?

A. Okay.

Q. Is that "Yes" or "No"?

A. Having both parties?

Q. Both parties have rights --

A. Agreement, yes.

Q. -- and obligations under the agreement?

A. Correct.

Q. Have you ever looked at a dealer agreement before? Putting aside Defendant's Exhibit A, have you ever reviewed a dealer agreement in the past?

A. I never see this agreement.

Q. Not this particular agreement; any dealer agreement?

A. Yes.

Q. You've looked at them in the past?

A. I always give it to my lawyer.

Q. But have you ever reviewed a

Mamdoh Eltouby

dealer agreement yourself?

A. By myself, no.

Q. Are you aware, generally speaking, of any of the duties and responsibilities of a dealer in connection with a dealer agreement?

A. Not really.

Q. Do you have any general idea of any obligations on the part of a dealer in connection with a dealer agreement?

A. Yes.

Q. What is your general understanding of a dealer's obligations?

A. Dealer obligation is, if anything violated the agreement, this is going to be bought back from the dealer.

Q. Repurchased?

A. Yes.

Q. So is it fair to say that if there is some problem with the contract -- if the contract was procured by fraud, or if there were documents missing, or if a title wasn't obtained, a whole number of things -- that in those instances, it's the dealer's obligation to repurchase the contract?

Mamdoh Eltouby

A. Correct.

Q. From the lending company?

A. Correct.

Q. And the lending company has a right to make a demand on the dealer to repurchase?

A. Correct.

Q. Has that ever happened; in which a lender has made a demand on Planet Motor Cars to repurchase?

A. Not really. Never.

Q. Never happened?

A. Never happened. We do this before they come to the bank.

Q. Before?

A. Before they come into the bank. We see the, you know -- you know very good the bank is bread and butter for us. We don't want any problem with the bank, and we buying the car back. We taking the car back from the customer and, you know, give it to the next customer.

Q. In your experience at Planet Motor Cars, you don't recall an instance in which a

Mamdoh Eltouby

lender has required the dealer to repurchase the retail contract?

A. Never happen.

Q. How about at Planet Auto Group; has that ever happened?

A. Never happen.

Q. It never happened where a lender said to Planet Auto Group, "Repurchase the contract"?

A. No. It never happen. But he say sometimes it was a freeze, because it was a title that was delayed, lost, and we cannot provide for Santander the lien, then they put us as a freeze until we get a duplicate title and the register. Then it's done.

Q. Just so you understand, my questions were not just limited to Santander, but to any lender --

A. Yes.

Q. -- making a demand?

A. Correct.

Q. So your answer stands: That no lender has ever made a repurchase demand?

A. No.

Mamdoh Eltouby

Q. How about at Hillside; has that ever happened?
A. I don't know about Hillside.
Q. How about at New York Motors?
A. New York Motors, no, never happened.
Q. So in your experience at the dealerships that you have either owned or worked at, a lender has never had a repurchase demand?
A. Never.
Q. Can we take a look at Defendant's Exhibit A, which you have in front of you. Look at the first page over on the right.
A. Mm-hmm.
Q. Is that your signature in the right top box?
A. No.
Q. Whose signature is that?
A. I think, my son.
Q. Underneath it, is that your name?
A. My name, but it is not my signature.
Q. I want to make sure we're looking

at the same thing. We're looking at the upper right-hand box?

A. Mm-hmm.

Q. You look like you're looking below.

A. [Indicating.]

Q. Okay, we're on the same part of the page. That's your name, but your son's signature?

A. Correct.

Q. And underneath it it says president -- or "pres," I should say.

A. Mm-hmm.

Q. Is that referring to you?

A. This is not either my signature.

Q. That's not your handwriting?

A. No.

Q. Well, it's not your signature, but is that your handwriting?

A. No.

Q. Do you know who wrote this out?

A. My son.

Q. Your son wrote it?

A. Mm-hmm. I know his handwriting.

Mamdoh Eltouby

Q. If you know, why would your son write your name as opposed to his name?

A. He write his name first.

Q. His signature first?

A. No.

Q. I'm looking at the box again.

A. The box again?

Q. Yes. Let's go back for a second. That's your son's signature in that box on the right-hand side of Defendant's Exhibit A?

A. Yes.

Q. Underneath that, is your name written?

A. Yes.

Q. Did you write that?

A. No.

Q. That's not your handwriting?

A. No.

Q. That's your son's?

A. My son's.

Q. If you know, why would your son write your name and sign his name?

A. I have no idea.

Q. What was his role at Planet Motor

Mamdoh Eltouby

Cars?

A. He is enroll, yes.

Q. What was his role? What was his role or responsibilities at Planet Motor Cars?

A. He was in the company.

Q. In what capacity?

A. He's working and sign paper.

Q. Is he an F&I guy?

A. He's an F&I guy and he is also part owner.

Q. Of Planet Motor Cars?

A. Correct.

Q. Was he authorized to sign on behalf of Planet Motor Cars?

A. Yes.

Q. What is the basis for your understanding that he could sign?

A. I don't know his basis.

Q. He did sign on behalf of Planet Motor Cars?

A. He did sign, yes.

Q. Besides this contract, did he sign others?

A. Could be he sign others too.

Q. Was he ever president of Planet Motor Cars?

A. Yeah. He's -- sometimes he put himself as president, sometimes he put himself as a worker, you know. He signed. He was running, he was running the place.

Q. But the question I have -- if you know, again -- is why your name is on it and not his name, if he was sometimes the president?

A. That's what he did. He decided to write it.

Q. Were you ever held out as president of Planet Motor Cars?

A. No.

Q. You were not held out to the public as president?

A. No.

Q. Internally, were you referred to as president or considered the president of Planet Motor Cars?

A. No.

Q. If you look in the middle, where it says "Non-Recourse Signature Card," do you

see that in the middle?
A. Mm-hmm.
Q. It says "I," and then your name is there?
A. Mm-hmm.
Q. "Secretary of Planet Motor Cars"; do you see that? Were you ever the secretary of Planet Motor Cars?
A. This one here?
Q. Same thing, yes. That is your name; right?
A. Yes.
Q. Mamdoh Eltouby?
A. That's right.
Q. "Secretary of Planet Motor Cars hereby certify the following resolution was unanimously adopted." Do you see that?
A. Yes.
Q. Is that your handwriting?
A. No.
Q. Whose handwriting is that?
A. My son.
Q. Were you ever the secretary of Planet Motor Cars?

Mamdoh Eltouby

A. No.

Q. Do you know why he referred to you as "secretary" of Planet Motor Cars?

A. I don't know.

Q. Were you ever held out as secretary to the public, or internally?

A. No. I was not even there.

Q. At Planet Motor Cars?

A. When this happened here, I wasn't even there. I was in auction probably or something. Because he was meeting the rep from Santander and he signed for him everything and gave it to him.

Q. Do you have a specific recollection of that?

A. Specifics?

Q. Do you have a specific recollection of you being at an auction at the time that this was signed?

A. Not really.

Q. So you're just assuming that you weren't there?

A. Assuming. But I see this for the first time, the signature.

Q. First time you have ever seen this?
A. First time I see this paper.
Q. Again in the middle, is that your son's name there and your name?
A. Mm-hmm.
Q. Okay. Is that his signature to the right of his name?
A. Signature, his handwriting for both name. You see the same handwriting?
Q. I see two different signatures.
A. Yes. He signed both of them.
Q. He signed both of them?
A. Yes.
Q. If you look to the right of your name, he wrote that?
A. He wrote this, everything.
Q. But is that supposed to be your signature?
A. Yes. It's not my signature.
Q. But is it supposed to be your signature?
A. Supposed to be, yes.
Q. Is it supposed to be duplicating

your signature?
A. Yes.
Q. And that matches the one up in the right-hand box?
A. Yes.
Q. But you didn't sign it?
A. Not sign it.
Q. There's another signature at the bottom?
A. Mm-hmm.
Q. Is that your handwriting?
A. No.
Q. Is that your son's?
A. My son's.
Q. Is that supposed to be a representation of your signature?
A. Correct.
Q. Did you have any discussion with your son about signing these signature cards?
A. No. I don't know that he sign my name. But his name already in the company.
Q. I understand. But my question was: Did you have any discussion with your son about signing these signature cards?

A. No.

Q. Did you have any discussion with your son about the dealer agreement between Santander and Planet Motor Cars?

A. No, never.

Q. You never had a discussion?

A. Never had.

Q. About any subject at all dealing with the dealer agreement?

A. No.

Q. The second page, is that your handwriting or your son's handwriting?

A. Everything here is my son, my son's handwriting. Do you see? The same signature, the same handwriting?

Q. The same with the third page?

A. Yes.

Q. Turn to the fourth page, please. This is a page called "Dealer Affiliation," and it identifies "Planet Auto Group."

A. Yes.

Q. Was there an affiliation between Planet Auto Group and Planet Motor Cars?

A. Correct.

Q. What was the affiliation?

A. Sister company.

MR. SIMON: He asked about affiliation between the two.

THE WITNESS: What means, "between the two"?

MR. BRENER: Between Planet Motor Cars and --

MR. SIMON: You asked it earlier.

MR. BRENER: I did ask it earlier.

Q. Does this change your view at all about whether there was an affiliation between Planet Motor Cars --

A. Yes, remember I telling you it was two different entities.

Q. I understand that. This document here asks for identification of affiliations with other dealerships, and it is filled out as Planet Auto Group. Do you know why it was filled out?

A. He give also the bank and Planet Auto Group.

Q. So it's filled out so that Santander will also have a relationship with

Planet Auto Group?

A. Correct.

Q. Did you talk to your son about filling out "Planet Auto Group" under this dealer affiliation page?

A. No.

Q. Is it your testimony then that as a result of Planet Auto Group being identified on this dealer affiliation page that Santander does business with Planet Auto Group?

A. It does already business with Auto Group, and certain time because it was slow, something, they cut the dealership. They say not get enough -- enough deals.

Q. If you look at this page, there is a vendor number. Do you see the vendor number?

A. Mm-hmm.

Q. If you know, what does that signify?

A. I don't know.

Q. Again, this is your son's handwriting and your son's approximation of your signature?

A. Correct.

Mamdoh Eltouby

Q. His attempt at making your signature?

A. Mm-hmm.

Q. It says "president." Were you the president of Planet Auto Group?

A. Yes.

Q. Can you take a look at the dealer retail agreement, please. In particular, if you can look at the second page, item number 8, do you see that? It says Dealer's Representations and Warranties?

A. Correct.

Q. We discussed before certain obligations on the part of a dealer in connection with the dealer agreement, generally. Do you remember that testimony?

A. Mm-hmm.

Q. Looking at this -- number 8 -- does that refresh your memory of some of the obligations on the part of the dealer in connection with the dealer agreement?

A. This is A and B and C and D and E and F?

Q. Yes. It's a list of

representations and warrants by the dealer.

MR. SIMON: It goes all the way up.

MR. BRENER: It goes up to M.

Q. I'm not asking you to memorize it certainly, but by looking through the list quickly does this refresh your memory that there are certain representations and warrants by the dealership to the lender?

A. Yes.

Q. Is it your understanding that these are obligations on the part of the dealer?

A. Correct.

Q. For example, if you look at D, it says, "All business practices, acts and operations of the dealer, including the sale and financing of insurance." Do you see that?

A. Yes.

Q. "And the sale and financing of automobiles...are in compliance with all applicable federal, state and local laws." Do you see that?

A. Yes.

Mamdoh Eltouby

Q. I wasn't reading everything in that, but you know where I'm looking at; right?

A. Mm-hmm.

Q. Does that refresh your memory that the dealer has to ensure that its business practices are in compliance with law?

A. I know this.

Q. If you look at F, it says "the contract." That is referring to a retail contract?

A. Mm-hmm.

MR. SIMON: If you know.

Q. And the contract is "a valid, legal, binding obligation." Do you see that?

A. Yes.

Q. "Entered into by a bona fide and competent person"?

A. Correct.

Q. "And is legally enforceable by SCUSA." Do you see that?

A. Yes. What does this mean, "SCUSA"?

Q. It's Santander Consumer USA. It's just the abbreviation or the acronym.

A. Okay.

Q. Do you understand F to mean that the contract has to be valid and enforceable; something that Santander can enforce?

A. Yes.

Q. And do you also understand that the credit information supplied by the dealer has to be true and accurate?

A. Yes.

Q. If you look at J, is it your understanding that the vehicle has to be "accurately described"; right?

A. I know all this.

Q. Okay. And if you look at K, K says the dealer does not know of any fact that indicates the uncollectability of the contract?

A. Correct.

Q. So is it your understanding that the dealer can't be making a contract here that he knows is not collectable?

A. Correct.

Q. You understand that?

A. I understand that.

Q. Okay. If you look at the next

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section, number 9, it says "Dealer Liability." Do you see that? It's right after the whole list on 8. Do you see under "Dealer Liability" there is a section entitled "Repurchase"?
A. Yes. Dealer liability.
Q. And it was your testimony before that, in instances in which the dealer violates its obligations, the lender can require repurchase of the contract; correct?
A. Correct.
Q. And so this section here talks about repurchase. Is it your understanding that if a dealer's representation or warranty turns out to be breached or untrue, that a dealer can demand repurchase?
A. Correct.
Q. So is it your understanding that if there's a breach of any of the categories that we just went through in section 8 -- if there's a breach of that, or if some representations are untrue -- that Santander can demand repurchase of the contract?
A. Correct.
Q. If you look further on item 8A, it

says that Santander can do a number of things. It can seek a current pay-off. Do you see that?
A. Mm-hmm.
Q. And it can seek to recoup its losses and expenses. Do you see that?
A. Yes.
Q. And that includes attorneys' fees, okay? Is that consistent with your understanding of what a lender can seek, or what Santander can seek, from Planet Motor Group in connection with this contract?
A. Correct.
Q. So in other words if there is a misrepresentation or if there is a breach of a representation or warrant, Santander can seek to recover its losses, including attorneys' fees?
A. Correct.
Q. If you look 9F, it says "Dealer Indemnity." Can you go down to that?
A. Dealer indemnity, yes.
Q. It says, "Dealer shall indemnify, defend and hold SCUSA" -- again, that's

Santander -- "harmless from any claims, losses, damages, liabilities and expenses, including attorneys' fees and costs of litigation which relate to a contract purchased by SCUSA." Do you see that?

A. I see that, yes.

Q. And it goes on to say, "and arise from dealer's breach or default under this agreement." Do you see that?

A. Yes.

Q. Is that consistent with your understanding that if there's a breach of this contract -- the dealer contract -- that the dealer is responsible for indemnifying and defending and holding harmless Santander?

A. Correct.

Q. Is that your understanding?

A. Yes.

Q. So in other words, the dealer is responsible for covering the costs incurred by Santander as a result of a breach; do you understand that?

A. I understand that.

Q. And that is consistent with your

understanding?

A. Mm-hmm.

Q. Do you also understand that the indemnity covers dealer's conduct, too? Do you see that in the section? So in other words is it your understanding that the dealer is obligated to indemnify, defend and hold Santander harmless for dealer conduct in connection with the contract?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. And that's consistent with your understanding?

A. Yes.

Q. You understand that to be the case?

A. Yes.

Q. And also the dealer is obligated to indemnify, defend, and hold Santander harmless for a failure of the retail contract to comply with the dealer's representations and warranties in section 8?

A. Yes.

Mamdoh Eltouby

Q. Do you see that?

A. Mm-hmm.

Q. "Or result from any act or omission on the part of the dealer"?

A. Yes.

Q. So in other words if there's a problem with the retail contract and the dealer has breached this dealer agreement, the dealer is required to pay for the costs incurred by Santander. Do you understand that?

A. Correct.

Q. And that is consistent with your understanding of the dealer's obligations under the dealer agreement?

A. Yes.

Q. In this action or group of actions --

A. Can I get a copy of this?

Q. You want a copy of it? You can have this copy right here. [Handing.]

There's a number of cases here, two of which involve a woman by the name of Ms. Dong, and another named Mr. Freire. Are you aware of what has been alleged by Ms. Dong in this case?

A. I know that something happened wrong and I did already give him pressure, to Mr. Estrada. I asked for the car, to release the car, you know. I not receive any money. We asked the customer, we trying to get them approved, because the customer cannot speak English. Every time Santander talking with the customer, they don't understand, and they don't final the deal, you know. This is what I understand. I don't know if he buy time or it's true or not true.

Q. Do you know specifically what Ms. Dong is alleging here?

A. I see her first time here. I wish I see her before, that she can tell me what happened to her exactly.

Q. Do you know specifically what she is alleging here?

A. No.

Q. Do you know what her complaints are?

A. Yeah, her complaint is she paid for the car and they get from Santander loan.

Mamdoh Eltouby

What I understand after I meet her, I understand this is -- what's his name -- Julio Estrada, he take all the money from her, and then when I give him pressure and I tell him, "Listen, where is the money for the car? How long is the car gonna be not funded?," then he tell me, "Yeah, yeah, no problem, I get it funded for you soon." And then I see the money coming from Santander, but I don't see the girl, you know. Every time I ask for the girl, "She coming, she not here, she this, she this." And the first time I meet her was in the deposition and she say "This is not my signature." And I know very good that she tell me also that she pay everything cash to Mr. Estrada. That mean, you know --

Q. So is it your understanding that Mr. Estrada submitted a contract with Ms. Dong's purported signature on it to Santander to fund the transaction?

A. Correct.

Q. And did it turn out that that's not Ms. Dong's signature?

A. Correct.

Mamdoh Eltouby

Q. And is it the case that Mr. Estrada then sent a forged contract to Santander?

A. Yes. When I was here, I speak with the DA regarding this case. And I got to go to the precinct next to us and they report everything to this, to add it to his, you know, to his cases, one of his cases that he have.

Q. Was Mr. Estrada working at Planet Motor Cars at that point?

A. No, he was working in New York Motor Group.

Q. Was the transaction done through Planet Motor Cars?

A. Yes.

Q. So Mr. Estrada submitted a false contract to Santander, seeking funding for a transaction --

A. Correct.

Q. -- that was supposedly with Planet Motor Cars and Ms. Dong?

A. Correct.

Q. It turns out that there was no transaction in which Ms. Dong needed financing;

is that correct?
A. Correct.
Q. So what Mr. Estrada sent on behalf of Planet Motor Cars was fraudulent?
A. Correct.
Q. And he defrauded Santander; is that correct?
A. Correct.
Q. Santander, as a result of the contract submission, provided financing or money; correct?
A. Correct.
Q. That money went to Planet Motor Cars?
A. Correct.
Q. Do you know what happened to the money?
A. What happened to the money?
Q. Yes.
A. It's coming to the company, and we paid for the car.
Q. You paid for the car?
A. Yes. The car wasn't paid because it was still on the floor plan, keep pushing

me, we have to get payment for this car.
Q. But you testified that Ms. Dong consummated the transaction and didn't need financing, so where did the financing funds go to?
A. I don't understand.
Q. Ms. Dong alleges a fake contract was submitted to Santander --
A. Yes.
Q. -- on behalf of Ms. Dong; correct?
A. Yes.
Q. As a result of the fake contract, Santander incorrectly thought that there was a transaction in which Ms. Dong needed financing?
A. Correct.
Q. Correct?
A. Correct.
Q. As a result of the fake contract, Santander provided financing?
A. Correct.
Q. Funds; correct.
A. Correct.
Q. Where did the funds go? From Santander to which entity?

Mamdoh Eltouby

A. To Planet Motor Car.

Q. After the funds were received by Planet Motor Car, what happened to those funds, if you know?

A. We paid the floor plan the cost of the car.

Q. You paid what?

A. We paid the floor plan the cost of the car.

Q. The floor plan?

A. Yes.

Q. Ms. Dong's vehicle was floor planned?

A. Yes. It was under floor plan.

Q. By who?

A. By Palisade Dealer Funding.

Q. By?

A. Palisade Dealer Funding.

Q. "Paliside"?

MR. SIMON: Palisades.

MR. BRENER: Palisades, okay.

Q. So does that mean that you took the funds from Santander and paid off Palisades?

Mamdoh Eltouby

A. Paid Palisades and paid the other -- you know, the warranty I think, or something. And there was a plate in Motor Vehicle, and taxes for the car, and everything.

Q. When did you discover that the contract that was submitted by Mr. Estrada to Santander was a fraud?

A. When I see Ms. Dong.

Q. That was the first time you discovered that?

A. First time, yes.

Q. And you had not heard any complaints by her prior to that?

A. No. She complain to the Motor Vehicle, but in the meantime I could not talk to her. The guy from the Motor Vehicle coming to me and I say it doesn't work so they sue me. Motor Vehicle, when they see this is another lawsuit, they say something, then they ignore it, they don't care, they don't go to specific, you know. Because you cannot sue the same company or the same case by Consumer Affair, and Motor Vehicle, and civil. You have to sue in one particular, you know.

Mamdoh Eltouby

Q. Since you discovered the fraud on Santander by Planet Motor Cars, did you communicate with Santander at all?

A. I communicated with Santander. I could not get anybody in legal to talk to him, except you. And I'm telling you this is, I want to go back to Santander, and I'm long time with Santander. It's never happen anything.

Q. But you have not repaid Santander for the Dong transaction; have you?

A. No.

Q. Why not?

A. We got pay when we finish the cases.

Q. Why when we finish the cases?

A. Remember when I telling you yesterday off-the-record, I tell you talk to bosses and see they give you the offer and we go from there.

Q. That's an offer that, if Santander will resume funding, that you would pay for the Dong and Freire transactions?

A. Correct.

Q. But until that occurs, you will

not pay Santander for Dong and Freire? Is that your position?
A. We will go to settle.
Q. But to date you have not made any payment to Santander --
A. No.
Q. -- as a result of the Dong transaction?
A. No.
Q. And you are not aware of Santander doing anything improper in connection with the Dong transaction; are you?
A. I know very good settled.
Q. As far as you know, Santander didn't do anything wrong in connection with the Dong transaction; correct?
A. Correct.
Q. So in other words, Santander didn't do anything --
A. No.
Q. -- improper in any manner with respect to the Dong transaction?
A. No.
Q. It was defrauded by Mr. Estrada?

Mamdoh Eltouby

A. Right.

MR. LANE: Objection as to form.

Q. Are you aware of Mr. Freire's allegations in this case?

A. I don't have all that case exactly, Freire. I got to go to Bruce Minsky and sit down with him and see exactly what's his complaint and if he's paying anything extra, or what's exactly -- what he complain. I don't know until now what's his complaint.

Q. Do you have any general idea of what his complaints are?

A. Not really.

Q. Are you aware that he claims that there were multiple contracts in existence and that Santander received a contract for funding that was not representative of the deal that he thought he made with Planet Motor?

A. Also what he never, he never again -- he never signed the contract?

Q. I'm just asking if you're aware of that --

A. No.

Q. -- that allegation?